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THE SOCIAL EVIL

WITH SPECIAL REFERENCE TO CONDITIONS
EXISTING IN THE CITY OF NEW YORK

A REPORT PREPARED UNDER THE DIRECTION OF

THE COMMITTEE OF FIFTEEN

G. P. PUTNAM'S SONS
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PREFACE

In the fall of 1900, the city of New York was startled by discoveries in regard to the spread of the Social Evil in certain districts, and as to the extent of flagrant offences against public morality and common decency. A meeting of citizens was held at the Chamber of Commerce in November, as a result of which the Committee of Fifteen was called into existence. The objects which the Committee of Fifteen undertook to accomplish were thereupon stated as follows:

(1) To institute a searching inquiry, uninfluenced by partisan considerations, into the causes of the present alarming increase of gambling and the Social Evil in this city, and to collect such evidence as shall establish the connection between existing conditions and those who, in the last analysis, are responsible for these conditions.

(2) To publish the results of such investigations in order to put our fellow-citizens in pos-

session of facts, and to enable them to adopt such corrective measures as may be needed.

(3) To promote such legislation as shall render it less difficult to reach offenders, and as shall put an end to the shifting and division of responsibility in the local administration of the laws relating to vice and crime, to the end that public officers and their subordinates may be held to a strict accountability for their acts.

(4) To suggest and promote the provision of more wholesome conditions and surroundings, in order to lessen the allurements and incentives to vice and crime.

During the winter and spring of 1901 the Committee devoted its attention chiefly to the first object. Its corps of investigators collected a mass of information and evidence, a part of which was utilized in bringing some of the offenders to justice, and in exposing the notorious "cadet" system. The Committee also co-operated with the framers of the new Tenement House Bill in securing its enactment into law. As a result of this law and of the facts collected by the Committee, it became possible to take measures for the eradication of prostitution from the tenement houses.

The overthrow of the control of the municipal administration by Tammany Hall and the success of the Reform movement in the municipal campaign of 1901 (a campaign in which the information supplied by the Committee of Fifteen constituted a very important factor) rendered it possible for the Committee to abandon any further work of a police nature or having to do with the supervision of public morals.

The third object of the Committee, however, was to promote satisfactory legislation on the subject of the Social Evil. In order to make intelligent preparation for its recommendations, a sub-committee was appointed to make a study of the history of regulation and its application to present conditions in New York. The sub-committee was fortunate in securing for this work the services of Mr. Alvin S. Johnson, at the time University Fellow in Economics at Columbia University, and now Instructor in Economics at Bryn-Mawr College. The investigation contained in Part I. is almost entirely the work of Mr. Johnson, to whom the thanks of the Committee are due. It is believed not only that the report constitutes a valuable scientific contribution to the

subject, but that in no other publication can there be found so comprehensive or so clear a statement of the problems involved. Certain features of the Raines Law are so intimately connected with the existence of prostitution in New York that it has been deemed wise to include in the appendix an account of that law.

The conclusions and recommendations of the Committee itself are found in Part II. The appendix to this part contains a summary of the operations of the Committee with special relation to the "cadet" system and to the existence of the Social Evil in tenement houses.

New York, January 2, 1902.

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PART I.

THE SOCIAL EVIL

CHAPTER I

THE PROBLEM OF PROSTITUTION

Prostitution is a phenomenon coextensive with civilized society. Barbarous and semi-barbarous peoples have at times been free from it. The ancient Germans, we are told, tolerated no prostitution in their midst; and there are said to be Siberian and African tribes to-day of which the same thing is true. But no sooner has a people attained a moderate degree of civilization than this social curse has fallen upon it; nor has any race reached a point of moral elevation where this form of vice has disappeared.

The most venerable traditions, the most ancient records all bear testimony to the antiquity of prostitution. Even a careless reader of Scripture knows how constantly it beset the ancient Hebrews, and how vain were the efforts

of sages and lawgivers to stamp it out. Nurtured by a vicious religion, it flourished throughout Asia Minor; and when civilization moved westward to Greece and Rome, prostitution followed as its shadow. The rise of the mediæval cities in Western Europe was marked by the introduction of the brothel. The great development of trade and commerce that ushered in modern times was also responsible for the universalizing of "the social evil."

Glancing at present conditions, we find that no important nation is free from the taint. The great cities of the world vie with each other in the vast numbers of those who gain their living by immorality. Nor is there reason to think that this condition is transitory. He would be an optimist indeed who could believe that a time will come when the problem of prostitution shall cease to be important. Like the pauper, the prostitute is a creature of civilization, and, like the pauper, will continue to thrust her undesirable presence upon society.

The fact that prostitution is practically universal has impressed itself strongly upon the numerous writers who have dealt with the sub-

ject. The inference has frequently been drawn that all efforts to suppress or restrict vice must be vain, and that the only rational course to pursue is to recognize its existence and to minimize its attendant dangers. There have been authorities who held the view that vice is an essential element in society, hence ineradicable. Others have gone so far as to affirm that what is best and purest in civilization could not have existed but for the sacrifice of a portion of womankind to immorality.[1] The saner authorities, however, content themselves with stating that vice is the inevitable result of causes which society has never yet been able to control.

It is frequently said that vice is a constant and invariable element in social life. This is, however, obviously untrue. So far as one can judge from the fragmentary history of morality, periods of gross licentiousness have alternated with periods of comparative decency. The degrading influence that intercourse with a lascivious nation has exercised upon a people of comparatively pure morals is well known to every student of history. The Romans were

[1] Lecky, *History of European Morals*, ii., 299.
Hügel, *Zur Geschichte, Statistik und Regelung der Prostitution*, 76.

disciples of the Greeks in immorality as well as in arts and sciences. The renewal of intercourse with the East that followed the Crusades was attended by a serious deterioration of European morals. On the other hand, the spread of Christianity, the Reformation, and the rise of chivalry, it is generally admitted, brought about a decided improvement in the moral tone of Europe.

Social and economic changes have frequently been marked by an increase or a diminution in vice. A prolonged war, more especially if it be a civil war, has generally resulted in an exaggeration of this evil. The Thirty Years' War and the French Revolution are notorious in this respect. Even minor phenomena, such as commercial disturbances, are not without a demonstrable effect upon the volume of vice.

That vice is a varying phenomenon, bearing no constant relation to population, is evident to anyone who has studied the conditions of modern cities. It has been affirmed that the greater the city, the larger will be the proportion of the vicious. While this is probably true, yet certain cities have attained a pre-eminence in evil reputation that is not to be accounted for merely by their size and wealth.

This fact, that vice varies from age to age and from place to place, is a sufficient indication that the causes of which it is the result do not operate with uniform force. It suggests the idea that while it may be impossible to control all of the causes of prostitution, and so to eradicate it, certain of them may be brought under control, with the result of limiting the evil.

Not less striking than the variations in the volume of vice are the variations in its general character. In Rome the masculine factor in vice consisted in the soldiers and freedmen, the gladiators and ruffians, the throngs of the idle and turbulent that congregated in the great capital of the world. The feminine factor was made up chiefly of the vast numbers of slave women, captured in the unceasing wars of conquest. Roman vice reached its climax when these elements grew to such proportions as to overshadow orderly society. In the Middle Ages the masculine factor consisted in the soldiers of fortune, travellers and outlaws, apprentices and pseudo-clergy, that made up the floating population. The feminine factor was largely composed of women abducted by robber bands, captured in petty

wars and abused by the soldiery, and of the neglected offspring of these unfortunates. As the floating population increased with the breaking up of the old order, as wars became more prolonged and their demoralizing effect more general, mediæval prostitution attained extraordinary proportions. All society seemed to be demoralized. Modern prostitution bears the peculiar stamp of modern social and industrial conditions. The hosts of unmarried workers of the great trading or industrial city represent the masculine factor ; the feminine factor consists of women and girls from the midst of the social organism who have been impelled by circumstances to make a quasi-voluntary choice of prostitution as a means of livelihood. Speaking generally, we may say that the ancient prostitute was a slave, the mediæval prostitute an alien, the modern prostitute is a citizen.

The fact is not to be overlooked that there is an element in prostitution which remains fairly constant. In every society there have been women whom circumstances have destined for honorable life, but who from innate perversity chose the life of shame. Modern criminal anthropologists have shown that in

physical, mental and moral characteristics these women form a type which varies little with time and place. Some scientists have gone so far as to declare that these are the only real prostitutes.[1]

The truth seems to be, however, that the importance of this element is greatly overestimated. The victim of force or fraud, or of adverse social and economic conditions, soon reaches a point where she is indistinguishable from the congenital pervert.

It is a trite saying that the real cause, the *causa causans*, of prostitution is to be sought in the male factor. A community, it is said, will have as much vice as it is willing to pay for. "Demand will create a supply." In this bald and cynical form the statement is obviously untrue. There is not in any community an indefinite number of women who are ready to sell their honor for a sufficient price. The number who do so varies chiefly for reasons that are independent of the "demand." Nevertheless, the idea is not without a fraction of truth. Under existing conditions, many women are attracted, rather than forced, into prostitution. The greater the

[1] Lombroso, B. Tarnowsky, Pauline Tarnowsky, Ströhmberg.

earnings of the prostitute, the richer her attire, and the more luxurious her mode of life, the stronger is the attraction for those who are upon the border-land of vice and virtue. Accordingly, any account of the causes of prostitution may properly begin with a consideration of the general reasons that are responsible for an extensive "demand."

This problem is intimately connected with that of the movement of population toward the city. A great part of the population of a modern city consists of young men who have drifted thither from the country and small towns, attracted by the greater opportunities of rising in social life and by the greater degree of personal comfort that the city offers. As a rule, the income that a young man earns, while sufficient to secure a fair degree of comfort for himself, does not suffice for founding a family. As his income increases, his standard of personal comfort rises; accordingly, he postpones marriage until a date in the indefinite future, or abandons expectation of it altogether. His interests centre almost wholly in himself. He is responsible to no one but himself. The pleasures that he may obtain from day to day become the chief end of his

life. A popular philosophy of hedonism furnishes him with a theoretical justification for the inclinations that are developed by the circumstances in which he is placed. It is not unnatural, then, that the strongest native impulse of man should find expression in the only way open to it — indulgence in vice.

At the same time that personal scruples with regard to continency dissolve in the crucible of city life, the main external check upon a man's conduct, the opinion of his neighbors, which has such a powerful influence in the country or small town, tends to disappear. In a great city one has no neighbors. No man knows the doings of even his close friends; few men care what the secret life of their friends may be. Thus, with his moral sensibilities blunted, the young man is left free to follow his own inclinations. The greater the city, as a rule, the more pronounced in this respect is its demoralizing influence; and our cities are growing steadily greater and are in an ever greater degree setting the moral tone for the country as a whole. The problem of masculine vice, it will be seen, is an integral part of that infinitely complex problem, the "Social Question."

It would be impossible in a brief sketch to analyze the complicated phenomena of feminine vice. It is possible, however, to select a few of the most important and most characteristically modern elements. In the first place, there is a large class of women who may be said to have been trained for prostitution from earliest childhood. Foundlings and orphans and the offspring of the miserably poor, they grow up in wretched tenements, contaminated by constant familiarity with vice in its lowest forms. Without training, mental or moral, they remain ignorant and disagreeable, slovenly and uncouth, good for nothing in the social and economic organism. When half matured they fall the willing victims of their male associates, and inevitably drift into prostitution. This element is to be found in almost every large city; but it is in London where it is to be found in the greatest extent and the greatest hideousness.

Another form is closely connected with the appearance of women in industry. In many cities there are great classes of women without any resources excepting their earnings as needlewomen, day-workers, domestics, or factory hands. These earnings are often so small as

barely to suffice for the urgent needs of the day. A season of non-employment presents them with the alternatives of starvation or prostitution. These form the "occasional prostitutes," who, according to Blaschko, far outnumber all others in the city of Berlin. When employment is again to be had they withdraw from the life of shame, if its irregularities have not incapacitated them for honorable labor.

A third class, one which is more or less typical of American prostitution, is made up of those who cannot be said to be driven into prostitution either by absolute want or by exceptionally pernicious surroundings. They may be employed at living wages, but the prospect of continuing from year to year with no change from tedious and irksome labor creates discontent and eventually rebellion. They, too, are impregnated with the view that individual happiness is the end of life, and their lives bring them no happiness, and promise them none. The circumstances of city life make it possible for them to experiment with immorality without losing such social standing as they may have, and thus many of them drift gradually into professional prostitution.

Any social problem, it must be remembered, appears impossible of solution when whole classes are viewed as units. The influences that are chiefly responsible for the great mass of vice are not within the control of government. Yet it is evident that there are infinite gradations from those who would remain pure under any circumstances to those who are almost destined by nature or surroundings to succumb to vice, and that those who are upon the margin of a life of shame may be rescued or degraded by social action. By private and public means something can be done to improve the surroundings of poor children, to relieve the distress of industrial workers in times of non-employment, to improve the outlook of those women whose lives are to be spent in the abnormal environment of factory and shop. Experience has shown the futility of measures that aim to abolish the evil. There is, however, every *a priori* reason to believe that its extent may be limited by a judicious policy of prevention.

CHAPTER II

REGULATION—ANCIENT, MEDIÆVAL, AND MODERN

Of the ancient nations with the life of which we are best acquainted, the Hebrews alone understood that prostitution is itself a serious evil. The Greeks and the Romans saw clearly that certain evils resulted from it, and it was their constant endeavor to divest it of those attendant evils. The trend of Jewish legislation may accordingly be described as repressive; that of Greece and Rome as regulative.

In Greece and Rome the evils that were the subject of legislation were religious, social and political—never hygienic. Religion required that the family should be preserved in its integrity from generation to generation; hence anything that would make legitimacy of offspring doubtful was execrated. Politics required the greatest possible number of citizens of pure blood; hence anything that would incapacitate the daughters of citizens for mar-

riage and motherhood was considered a public calamity. As a result, we find a body of drastic legislation which made the woman whose honor was tainted a total outcast from society. It was the aim of the legislator to prevent, so far as possible, the fall of free women, and to make impossible the return to decent society of such as had fallen.

The social consequences of masculine vice practically escaped the notice of the Greek and Roman. Although there is evidence enough that venereal disease existed, its effect upon the welfare of the community was not understood. The existence of a numerous class of slaves obviated the necessity of sacrificing free women to immorality. Accordingly, it is not surprising that the utmost latitude of conduct was granted to the freeman, while regularity of life on the part of free women was enforced with the utmost severity. The preservation of city, clan and family depended upon the chastity of the women; it did not depend in anything like the same degree upon the chastity of the men.

It was impossible, to be sure, to confine vice absolutely to slave women. But if free women fell, they were assimilated to the class of slaves.

In Rome they had no right to enjoy their property, they had no control over their children, they could not give oath or make accusation. Their status differed from that of slaves in that they had no particular master. They were, in a sense, public property, and were required to live in quarters set apart for them, and were subjected to regulations as to dress and conduct which might distinguish them as such wherever they might be. In Rome, as early as 180 B.C., they were registered in the books of the ædiles, in order that their peculiar status might be the more perfectly defined.[1]

After Rome had grown into a world empire, the line between slave and serf, freedman and free-born, tended to become obscure. At the same time, a thorough degradation of morals permeated all society, so that it was no longer possible to separate the immoral from the honorable. Prostitutes still formed a special class, but such regulation as continued to exist

[1] The origin of the special quarter and the special garb is probably to be found in the fact that the public women were originally "priestesses" of Venus, and lived in the precincts of the shrines and wore a garb indicating their religious office. The transition to the status of public slaves with the fading out of the religious idea can be easily understood.

had for its chief purpose the collection of revenue from the earnings of the public prostitute. This end also was abandoned when a higher type of imperial authority realized the dishonor of public sharing in infamous gains. Under the Christian Emperors repressive laws were enacted, thus concluding definitely classical regulation of vice.[1]

Modern writers have sometimes claimed that prostitution was "tolerated" in Rome and Greece as a means of combating the unnatural vice which was so common in ancient civilization. It is a sufficient refutation of this position that not until a comparatively late date was unnatural vice considered an evil, while prostitution was permitted from the earliest times. Moreover, so numerous were the slave women devoted to infamy that it is difficult to conceive how anyone can believe that it was dearth of "natural" vice that was responsible for the hideous development of unnatural vice that disfigured the history of decadent Greece and Rome.

Mediæval Regulation of Vice.—At the beginning of the Middle Ages the states of

[1] Parent-Duchâtelet, *De la Prostitution dans la ville de Paris*, 3d ed., vol. ii., 268.

Western Europe pursued a strictly repressive policy with regard to prostitution. The capitularies of Charlemagne imposed upon the prostitute and those who sheltered her imprisonment, whipping and exposure. For this severity, the legislation of the late Roman and Byzantine Emperors was no doubt partially responsible. A more potent influence was, however, exercised by the early Teutonic customs and laws. Tacitus states that in some German tribes women of unchaste life were punished by death. The Salic law prescribed banishment for them, and the laws of the Visigoths (600 A.D.) inflicted the penalty of beating with rods.

But as population increased and became more settled the treatment of the vicious underwent a gradual change. By the tenth century, the persecution of the prostitute had practically ceased. Prostitution came to be tolerated, but under regulations that were aimed to divest it of the consequences that to the mediæval mind seemed evil. In 1180 Henry II. gave a royal patent for the legalization of public houses of prostitution in London. They were established in Hamburg in the year 1272; Regensburg, 1306; Zürich, 1314; Basel,

1356; Avignon, 1347; Vienna, 1384. The ordinance of St. Louis, 1254, and the laws of Naples of the eleventh and twelfth centuries reflect the severity of early Teutonic legislation. These laws were, however, merely the outcome of the religious zeal of the rulers; they did not represent the public sentiment of the time. They do not appear ever to have been systematically enforced.

Mediæval regulation is best understood by reference to the ends it was designed to meet. Preservation of the existing order of things was regarded as of cardinal importance. The integrity of the family was looked upon as vital; accordingly, the severest penalties were inflicted upon unchaste wives and daughters of burghers. It was believed that if provision were made for the satisfaction of the vicious impulses of the floating population, the family would be secured from invasion. Therefore the brothel was not only tolerated; it was considered a necessary and a useful adjunct to city life. This will account for the fact that the house of ill fame was often built at public expense and managed on public account, and for the voting of funds for securing from abroad inmates for the public house. It also explains

the condition sometimes imposed upon the citizen who leased such an establishment, that he should provide a sufficient number of suitable inmates.

It was also essential that public women should form a class absolutely distinct. They were normally secured from foreign countries, or, at any rate, from beyond the city's domain. They remained aliens ; and if any woman from within the ranks of decent society fell from virtue, she became an alien in status and was forever debarred from returning to her kin. They were required to live in a special quarter and wear a distinguishing mark upon their clothing, usually a yellow or red ribbon upon the sleeve, so that no mistake might be made as to their character.

There was no trace of the modern feeling that vice should be quite hidden from respectability, ignored by decent society. The prostitute played no mean rôle in the social life of the Middle Ages. As such, she took part in public processions, and even in sacred festivals.[1] The brothel was bound to entertain notables

[1] The student of the origin of social customs will at once suspect a relation between the functions of public women at festivals and the orgies in celebration of certain pagan deities. As a fact, the connection would not be difficult to trace.

who visited the city. In short, the Middle Ages believed vice to be nothing evil, so long as it showed its true colors.

The second aim of the mediæval legislator was to prevent the brothel from becoming a centre of disorder. At all times the prostitute and the outlaw have been natural allies. Wherever houses of ill fame were grouped in special quarters, thieves and cut-throats congregated, menacing the persons and property of the citizens.[1]

It was the mediæval policy to fix responsibility upon groups, rather than upon individuals. This idea appears in the regulation of prostitution. Sometimes the public women were organized in guilds, which chose a head who was responsible for everything that might occur in the brothel. This was the case in Nuremberg; and, after the fashion of other guilds, the licensed prostitutes took it upon themselves to prosecute persons who infringed upon their monopoly. Sometimes they were

[1] In 1367 two quarters were set apart by the Parisian authorities for prostitution, the *Glatigny* and the *Hueleu*. Great numbers of thieves, robbers and vagabonds flocked together in these quarters, making of them veritable strongholds, whence vice and crime could raid the city with impunity. The police were defied and even royal edicts for demolishing the places were for decades set at nought.—Carlier, *Les Deux Prostitutions*, 11–13.

placed under the charge of a special official who decided all cases of injury committed by them or against them; in still other places a special court was created for their control. Where a brothel was let to a responsible citizen, he was compelled to undertake all responsibility for the conduct of its inmates.

One further object held in view by the mediæval legislator was the organization of prostitution for fiscal purposes. As possessors of a lucrative occupation, they were compelled to contribute to the public treasury. There seems to have been no hesitancy about accepting for public purposes a part of the earnings of shame. Even the Church did not stick at such revenues.[1]

Mediæval regulations, then, possessed generally these three aims: prevention of vicious conduct on the part of citizen women, collection of revenues from prostitution, and preservation of public order.

As in the case of classical regulation, aims that were possible of realization while the cities were of moderate size and while social relations

[1] Clement VIII. compelled public women to give a part of their earnings to the Convent of St. Mary of Penitence.—Tammeo, *La Prostituzione*, 30.

were fixed, were not capable of realization when the old order broke up under the social and economic changes at the end of the Middle Ages. Society as a whole became corrupt; the alien character of prostitution disappeared. Sumptuary laws were enacted, because it was thought that it was the jewelry and fine clothing of the prostitute that attracted decent girls and women into the life of shame. At about the same time an epidemic of syphilis spread over Europe, assuming, as a result of the general immorality, the proportions of a world plague. Under the influence of this evil the licensed houses of prostitution were pretty generally closed during a considerable part of the 15th and 16th centuries. Re-opened again, they lived by the strength of traditional usage until replaced by modern regulation of prostitution, or, as it is generally known, reglementation.

Modern Regulation.—Modern regulation is almost wholly distinct from that of mediæval and classical times, both in its ends and in the means it employs to secure them. The mediæval city strove to insure the welfare of its own citizens; it cared nothing for the moral welfare of the aliens who were the victims of

its policy. The extension of the unit of society from the single city to the nation, from the nation to the civilized world, has awakened the public conscience to the fact that even the prostitute is a member of society. Under modern conditions, it is inconceivable that a political body should aid in the securing of victims for vice, even if it were still believed that the existence of a vicious class is a safeguard for the virtuous; for the victims must necessarily be recruited from orderly society,—in the last instance, from the ranks of the virtuous.[1]

Accordingly, the moral point of view has changed completely. Every modern system of regulation avows the purpose of preventing, as far as possible, the degradation of those who are not yet depraved, and the rescue and restoration to honorable life of fallen women who are still susceptible to moral influences.

But the chief distinguishing feature of modern regulation is its endeavor to stamp out the diseases that everywhere attend vice. Nothing

[1] Certain authors have caught at the idea of a supposed natural class of degenerate women, reversions to a non-moral type, as fitting victims for social vice. It is no hardship, they claim, that such creatures should be permitted to follow their own natures. This is evidently an attempt to restore the alien status of the prostitute. It is not worth while to point out the weakness of the position.—See Ströhmberg, *op. cit.*, *passim*.

analogous to this aim is to be found in ancient and mediæval regulation.[1]

So prominent has the sanitary aspect of the problem of vice become that the term "regulation" is used generally to denote sanitary regulation alone.

One end that modern regulation has in common with mediæval regulation is the dissociation of vice from crime. In the Middle Ages, this end was partially attained by fixing responsibility not upon the individual prostitute, but upon individuals or groups of individuals who could not so easily evade the law. A study of modern regulations will reveal the fact that not dissimilar means are employed for the same end.

[1] Parent-Duchâtelet cites regulations of Avignon of the 14th century, which required that public women should be visited weekly by a "barber." The regulations in question are, however, undoubtedly spurious.

CHAPTER III

REGULATION OF PROSTITUTION IN PARIS

During the Middle Ages, prostitution was tolerated in Paris as in all other important cities of Central Europe. But with the appearance of the epidemic of syphilis toleration ceased. The victim of that frightful malady fell heir to all the cruel maltreatment that had been the especial heritage of the leper. The prostitute, as the natural medium of the disease, came to be regarded with horror and hatred such as her mere moral delinquencies have hardly ever inspired. The ancient laws making prostitution a crime were restored, and not until the end of the eighteenth century did they cease to be enforced.

For a long time after the policy of expelling the male syphilitic from society had given way to the more rational policy of treating him, no provision was made for the relief of unfortunate prostitutes who were suffering from disease. It was only accidentally that certain features

were inserted in repressive laws which pointed toward a system of sanitary control. As late as 1657 it was the practice to exclude infected prostitutes from the Salpétrière, where the women charged with prostitution were confined. As the system of inspection was imperfect, many who were diseased were found among the prisoners. These were treated by order of the authorities of the prison, although this was strictly contrary to law. An edict of 1684 recognized the necessity of treating the diseased. This provision is regarded as the germ of the French sanitary control.[1]

By the same law, the lieutenant of police was given practically unlimited control over prostitutes. He passed sentence, nor was there any appeal from his decision. The length of time during which the prostitutes were imprisoned lay in his sole discretion. The determination of the criteria whereby a woman was judged guilty of debauch lay also in his province, as appears from the preamble of the law of July 26, 1713. It is easy to see in this the germ of the discretionary power that the police assume in dealing with prostitutes.[2]

[1] Parent-Duchâtelet, *op. cit.*, ii., 5 *et seq.*

[2] Lecour, *La Prostitution à Paris et à Londres*, 407.

For the rest, an effort was to be made to reform these women. They were to attend mass and hear prayers read, etc. They were treated, of course, as ordinary criminals: they were dressed in prison uniform and fed on prison fare and were compelled to perform the hardest work of which they were capable.

By the law of 1713, above mentioned, the determination of the facts of prostitution was left to the royal commissaries or judges in the several quarters of the city. These were to receive as proof the declarations of the neighbors. The pronouncing of sentence and the discretionary power as to its severity still remained with the lieutenant of police.[1]

Such were the general regulations on the subject of prostitution down to 1768. In that year a royal ordinance decreed that prostitutes found with the army should be arrested and imprisoned by the military authorities unless they were domiciled in the vicinity. In that case they should be turned over to the civil authorities for imprisonment. Before being imprisoned, however, they were to be treated for disease if found ill.[2]

It is easy to see how the regulations of 1684,

[1] Lecour, *op. cit.*, 409–410.

[2] Lecour, *op. cit.*, 411.

supplemented by the ordinance of 1768, should become in effect a system of sanitary control. The treatment previous to imprisonment was compulsory; the punishment lay in the discretion of the lieutenant of police. All that was necessary was to make periodical arrests with compulsory treatment and to discharge those who were cured without imprisonment. It appears that a system something like this developed toward the end of the *ancien régime*.[1]

It was natural that the need for a system of permanent registration should arise. The first appearance of the idea of registration was in 1765. A police officer suggested in a report to the lieutenant of police that the existing disorder would be greatly diminished if all public women were registered by the police. It was rather with the hope of securing better order than with a view to sanitary control that the idea was then put forward. Some years later another memoir emphasized the sanitary bearing of registration. A commission was appointed to examine into the matter, but it pronounced the scheme impracticable.[2]

[1] Carlier, *Les Deux Prostitutions*, 17.
[2] Reuss, *La Prostitution*, 231 *et seq.*

At the close of the reign of Louis XVI. the plan was again taken up, and two agents were ordered to proceed with the registration of prostitutes. The Revolution, however, prevented the order from being carried into effect. The principles of the Revolution were too uncompromising to permit of a policy so likely to infringe upon individual liberty.

Not until 1798 were any preventive sanitary measures taken. In that year a private physician undertook, under administrative patronage, the work of examining the prostitutes actively engaged in their occupation. Apparently, it was the understanding that he should communicate to the police the state of health of those whom he examined.[1]

In 1802 the prefecture of police proceeded to register public prostitutes and to impose upon them the obligation of submitting to fortnightly examination. Hitherto the courts had decided whether or not a woman was guilty of professional debauch; now the police proceeded to establish the facts in a purely administrative way. The ardor for personal liberty had cooled by this time so that no difficulties were thrown in the way of the carrying

[1] Lecour, *op. cit.*, 69.

out of the plan of regulation. In 1805 a dispensary was established for the treatment of the diseased prostitutes. All expenses were to be met by fees collected by the physicians themselves. This system, it can easily be understood, led to great abuses. The examining physicians took care to make their fees as large as possible. Accordingly, in 1810, it was found necessary to make a change in this respect. The physicians were to report to the cashier of the administration the names, addresses, and the state of health of the women examined. That official paid the physicians and became responsible for the recovery of the sums from the prostitutes.[1]

By the second decade of the century the Parisian police had developed a plan which they have cherished ever since — that of confining prostitution to houses specially licensed for that purpose. The difficulties that lay in the way of controlling the conduct of the prostitute by dealing with her directly were found to be almost insuperable. The keeper of a brothel or a house of accommodation, however low he may be morally, has nevertheless a property stake that will keep him within the

[1] Lecour, *op. cit.*, 73.

bounds of the law. Prostitutes who were living in isolated quarters were ordered to betake themselves directly to the houses of accommodation. Soliciting upon the streets was forbidden again and again, but the prohibition was not capable of enforcement.

In 1828 the tax levied upon prostitutes for meeting the expenses of sanitary control was abolished. It had proven burdensome and injurious. Half the time of the special agents of the Morals Bureau was spent in hunting up prostitutes who were delinquent in their payments. Moreover, it acted as a deterrent to voluntary registration.[1]

Up to 1828 the police registered as a licensed prostitute any woman who desired it. No inquiries were made as to age, civil state, or antecedents. Young girls arrested for debauch were registered forthwith. According to Parent-Duchâtelet, the register of public women contained the names of girls of ten, who had, of course, never been engaged in vice. In 1828 this outrageous policy ceased.[2]

In 1843 the service of morals was reorganized. The system then established is practically the

[1] Parent-Duchâtelet, *op. cit.*, ii., 224.
[2] Carlier, *op. cit.*, 41.

one now in force. It has also served as a model for most of the systems of Europe.

Prostitution is tolerated either in licensed brothels or in houses of accommodation where prostitutes at large are compelled to resort. Weekly examinations are imposed upon the inmates of brothels; these take place in the licensed houses. The prostitutes at large are obliged to appear once in two weeks at the office provided by the police for that purpose. Those found to be diseased are sent to the hospital of the prison of St. Lazare, and are not liberated until cured.

To insure a certain control over the conduct of these women, the keeper of a licensed house (always a woman) is responsible for good order in her establishment. A prostitute who lives alone in a rented apartment must own the furniture of the apartment, so that it will not be easy for her to disappear in case she has violated any of the regulations.

Women may be registered as prostitutes either by order of the chief of the Morals Bureau or at their own request. As a rule, inscription is voluntary. Clandestine prostitution is punished severely enough to make it worth while for the notoriously debauched to

avail themselves of the toleration offered by the police.

Originally, little attention seems to have been paid to the checking of the growth of vice. But there has been an increasing tendency to refuse the registration of minors. While this cannot be done in every case, minors are registered much less frequently now than formerly. The tenants of licensed houses are forbidden to admit boys under eighteen, or students of the various higher schools. Great care is also exercised in making it easy for a woman who desires to reform to do so.

The control of prostitution is given over almost entirely to a body of special agents who form a part of the general secret service. The ordinary police have nothing to do with prostitution, except in case of gross violation of public decency or public order. Between forty and fifty agents are required for this service. They must, of course, be men of great tact, they must be men upon whom reliance may be placed, since any mistake they may make entails the most serious consequences.

The medical service consisted in 1890 of a chief and assistant-chief surgeon, fourteen

surgeons in ordinary, and ten adjunct surgeons. They are assigned to various quarters of the city, changing at intervals by regular rotation.

The first thing that strikes the student of the Parisian system is the weakness of its legal basis. Since the Revolution, no general laws on the subject of prostitution have been made. The Penal Code does not touch upon it. The police are therefore compelled to go back to the Ordinances of 1684, 1713, 1768 and 1778 for their authority to regulate vice. According to these ordinances, prostitution was a crime, which the lieutenant of police could punish at his discretion. Clandestine prostitution is still punished according to those ordinances.[1]

The modern police are not, however, the successors to the powers of the lieutenant of police under the *ancien régime*. The lieutenant of police could pass sentence if his royal master authorized him to do so. The modern police commissary has no power to sentence a criminal; yet he appears to assume such an authority with regard to the so-called crime of debauch.

Another legal prop for the service of morals

[1] *Cf. Réglement du 13 Novembre 1843, Sec. 7.*

is the law of 1789 constituting the municipalities. By this law, the municipalities are assured the advantages of a good police system. The exact powers of the police are not enumerated, but by a law of 1790 it is specified that the police are to maintain public order and decency and to protect public health. It is assumed that this implies a system of police regulation of prostitution.[1]

There have been numerous attempts to pass general laws with regard to prostitution. In 1811 and in 1816, in 1819 and in 1823, eminent administrators, lawyers and statesmen attempted to formulate special laws that would be appropriate to so delicate a subject. The task had to be abandoned, however. It was impossible to devise a law at once efficient and just. And so the police have continued to take matters into their own hands, changing their regulations from time to time to suit the exigencies of the occasion.

Doubtless the service of morals has gained rather than lost by the flexibility thus attained. But the lack of any other than a fictitious legal basis has always been a point of attack for the opponents of the system. While some

[1] Lecour, *op. cit.*, 29.

of the supporters of the system of regulation acquiesce in the absence of general laws, believing it beneath the dignity of the State to notice a subject which is the cause of so many cares for the police, the majority would look with favor upon any measure which would free the police from the serious charge of illegal usurpation of powers.

CHAPTER IV

REGULATION IN BERLIN AND IN OTHER CITIES OF EUROPE

Berlin. — The Reformation and the great social and economic movements that were connected with it wrought a complete change in the character of the city of Berlin. From a conservative mediæval town, in which every person had his fixed place, it had become a large and wealthy city. The old regulations concerning vice had been quite outgrown. Although the old regulations, abolished at the time of the Reformation, were restored when the religious ardor had cooled, prostitution was no longer easily controlled by them. It had increased greatly in volume and in complexity. The inference of contemporaries was that the Reformation had thoroughly ruined the morals of society—an inference accepted by not a few modern writers.

In 1700 a system of regulation was adopted which contained the essential features of mod-

ern regulation. As one would expect, much was borrowed from the Middle Ages. The principle of dealing with groups of individuals under a responsible head appears in the provision which makes the keeper of the brothel responsible for the conduct of the inmates of his house. If any outrage were perpetrated, such as assault or robbery, the keeper had to make good the damage done. If a woman, known to be diseased, transmitted the malady, the keeper had to stand the costs of treatment. In this way it was thought possible to restrain effectively all tendency toward disorder.

For the sake of preserving the health not only of the prostitutes, but also of their visitors, an official surgeon was to examine them fortnightly. Those who were found to be diseased were to be confined to their rooms, if the malady were slight; if it were grave, they were to be sent to the Hospital of Charity. This feature of the regulation is of course distinctly a modern innovation.

Another thing that strikes one as distinctly modern is the declaration that prostitution is not permitted, but tolerated—a bit of sophistry which marks a distinct advance over the naïve view of the Middle Ages. Instead of the medi-

æval tax upon prostitutes as the possessors of a lucrative trade, we find a fee of two Groschen for medical examination. This, too, is modern. It shows that even then there was a feeling that it was dishonorable for the State to accept the earnings of so foul a trade, excepting for the expenditure of regulating the trade. One thing more that marks the regulation as modern is the provision that, if a prostitute wished to reform, the keeper of a brothel could not detain her, even though she owed him a debt.[1]

This regulation remained in force until 1792. With the growth of wealth and population, vice had increased enormously. In 1780 there were a hundred houses of ill fame, with seven to nine inmates in each.[2] There was, besides, a class of prostitutes who lived in rented lodgings and carried on their profession on their own account. These also were tolerated by the police, although the regulation of 1700 had made no provision for them. Moreover, clandestine prostitution throve, although the police dealt with unlicensed prostitutes in summary fashion, arresting them and registering them

[1] Behrend, *Die Prostitution in Berlin*, 20.
[2] *Ibid.*, 26.

without formalities, and compelling them, under severe penalties, to appear for sanitary examinations. No special regard was had for the age or condition of those thus inscribed upon the register of infamy. Many of them were mere children.

In 1792 a new regulation was made. This was in many respects a mere amplification of the regulation of 1700. Licensed houses of prostitution were tolerated, as were also prostitutes at large. This was strictly contrary to the General Code (*Allgemeines Landrecht*), which prohibited prostitution excepting in licensed houses. No attention was paid to this fact at the time.

The principle of placing the prostitutes under the control of persons who could be responsible for their conduct was still further developed. No one could open a brothel without first receiving permission from the police; no one could rent a room to a prostitute without permission. As in the older regulations, the tenant of the licensed house was responsible for any outrage or robbery committed upon his premises. Moreover, he was held to be an accomplice until he proved his innocence. Even if it could be proven

that he was no partner to the outrage, he was subject to fine and imprisonment if he had not done everything in his power to prevent it. Prostitutes at large were compelled to live in certain streets. The person who let lodgings to them (always an elderly woman, single, widowed, or divorced) had to undertake responsibilities similar to those of the tenant of a licensed house.

Much greater emphasis was laid upon the sanitary feature of regulation. Any person who should transmit a venereal disease was to stand the cost of treatment and was subject to imprisonment for three months. While this provision applied to men as well as to women, it is easy to see that in practice it would hardly reach anyone except the prostitute. The mistress of a brothel was held jointly responsible with the inmate for any disease transmitted, whether she knew that the disease existed or not. She was also under obligation to report at once any case of disease in her house. If she failed to do so, she was subject to fine and imprisonment.

The main sanitary measure was, however, the periodic examinations by the official surgeons. These took place weekly, at the

domicile of the prostitute. Those who were diseased were disposed of as in the older regulation. To meet the expenses of treatment, a contribution was laid upon all prostitutes. As this proved insufficient, a tax was imposed three years later upon the tenants of licensed houses.

Much more attention than formerly was paid to the moral welfare of the fallen woman. If she wished to reform, she could not be detained for any reason. Minors could be registered only in case they were already utterly depraved.[1] Of this the police were the judges, since no girl could be admitted to a brothel without permission. Severe penalties were enacted against enticing young women into brothels.

For the preservation of public decency, soliciting in public places was prohibited, as well as indecent proposals from windows or doors of brothels. The brothel tenant or the woman who had let a room to a prostitute was responsible for the enforcement of this regulation. Moreover, the sale of intoxicating liquors in brothels was prohibited, and, later, dancing and games, in order to pre-

[1] The age of majority was twenty-four.

vent vicious resorts from becoming places of entertainment.[1]

No provision was made for compulsory registration. But the clandestine prostitute was punished by three months' imprisonment, followed by confinement in the workhouse until she should manifest a desire to enter some honorable employment, and should find an opportunity to do so.

This regulation remained practically unchanged until 1828. It was not, however, enforced with uniformity from year to year. The ideas of the French Revolution permeated German society to a certain extent, creating a feeling that it was an outrage upon justice to place a special class of human beings under the arbitrary control of the police. Moreover, it was felt that the intimate relations of the State with vice, which a system of regulation naturally creates, were degrading. Not only did this feeling exist in the general community, but it influenced not a little the ministry of the realm. Accordingly, the police of Berlin were subjected to hostility from above and below. In 1810 the ministry absolutely prohibited the registration of minors, a practice

[1] Behrend, *op. cit.*, 29 *et seq.*

in which the police had hitherto persisted. The police were forbidden to grant permits for new brothels. They were to examine closely into the antecedents of a woman who proposed to enter a house of ill fame, and to deter her from her purpose, if possible. Against this tendency was the sentiment of the army, which has generally been decidedly in favor of a system of tolerated vice. The military authorities at Berlin pleaded for the removal of the age limitation imposed upon those who wished to enter the ranks of registered prostitutes.[1]

After the "glorious victory" the sentiment against regulation diminished. In 1814 permission was granted to register minors, although an attempt was first to be made to induce them to reform, and the consent of their parents was to be secured. Permission was also given to erect a new brothel in place of one that had failed, and to transfer the ownership of brothels. The consent of the police was of course to be secured.

In 1829 a new regulation was made, with the approval of the ministry. The only important change was the increased frequency of

[1] Behrend, *op. cit.*, 90.

sanitary inspections. According to the new regulation, they were to be made twice a week instead of once.

At this time there were thirty-three licensed houses in Berlin. These were pretty well scattered throughout the city. There was no formal restriction as to their location, excepting that they were not permitted in the vicinity of churches and schools, or on crowded thoroughfares. A considerable number of them, however, were grouped together in a small street, *an der Königsmauer*. This street had from a very early date been noted as a haunt of vice.

During the thirties, citizens who possessed property in the vicinity of brothels began to complain to the police and the ministry of the losses they suffered in consequence of the presence of vice, and to petition for the removal of the licensed houses. The police authorities paid no attention to the petitions, but in 1839 the ministry, again hostile to police regulation, ordered the removal of all such houses to the street *an der Königsmauer*. Accordingly, all were removed thither except two. Five failed, leaving twenty-six licensed houses in a street containing only fifty-two

small houses. The street may fairly be said to have been abandoned utterly to vice, since its remaining inhabitants were largely panders and procurers, together with the workers and small traders who depended for support upon the custom of the brothels.

This measure was, however, very far from being satisfactory. It is a question whether the existence of isolated brothels in various parts of the city was as demoralizing as the existence of a limited quarter in which vice ran riot. Whatever may be said of the demoralizing effect upon respectable society of a number of prostitutes mingling with it, there can be no doubt that respectable surroundings have far more power than police regulations to keep the wanton woman from displaying the actual degradation of her character. In a limited community consisting wholly of immoral characters, in which respectable persons normally appear only in moments of immorality, this restraining influence is absent. An *esprit de corps* is created which is highly injurious to public morals and public order.[1] Furthermore, the existence of licensed houses side by side almost inevitably leads to an

[1] Behrend, *op. cit.*, 114 *et seq.*

odious competition in indecency for the sake of attracting customers.

From the point of view of sanitary regulation, the plan was not successful. While the notoriety of the quarter naturally attracted the youthful and the reckless, the bands of students and apprentices, the strangers bent upon novelty, the publicity of it deterred those who had acquired caution without acquiring continence, — the greatest resource of prostitution. Hence clandestine prostitution increased throughout the city.[1]

A further result of the grouping of licensed houses was increased opposition toward any system of regulation whatever. The agglomeration upon one spot of so much vice opened the eyes of the better classes to the extent of the evil. Accounts, exaggerated beyond all semblance of truth, recalled the orgies of declining Rome. The abolition sentiment again gained credit with the higher authorities, and in 1843 the ministry issued an order that one half of the brothels *an der Königsmauer* should be removed beyond the *Stadtmauer*.

[1] This does not mean that prostitution in general increased. It merely means that the relative proportion of those who would submit to regulation declined.

All were to be subjected to close surveillance, and for three violations of the regulations, whether great or small, they were to be closed, nor were others to be opened in their place. The first part of the order was not carried out, as the police declared that it was impossible to find a locality which would receive the removed houses. Opportunity was not given for carrying the second part of the order into effect, as an order of the Minister of the Interior, issued in 1844, fixed January 1, 1846, as the date for the closing of all the brothels in Berlin. This order was duly executed.

It is not to be supposed that a let-alone policy was adopted. The police were ordered to take all needful measures for public safety and public health. Prostitutes were still compelled to submit to weekly medical inspections. A register was kept showing the state of health of the women, but no control-book was given them, and it was to be impressed upon them that they were not licensed, but merely tolerated. Clandestine prostitution was still subject to severe punishment. Doubtless the police enforced the changed regulations with no very great enthusiasm; but, so

far as the formal regulations were concerned, the only change was the abolition of the brothel and its replacement by tolerated prostitution at large. There is no ground whatever for the notion that all sanitary control was abandoned in 1846.

At the instigation of the military authorities, the licensed houses were opened again in 1851. The Penal Code of 1850 imposed the penalty fixed for procuring upon anyone who should act as a mediator for professional vice or lend his aid to vicious practices.[1]

Another section, however, implied the right on the part of the police to make needful regulations for the preservation of public health and public order.[2]

It was upon the latter section that the police based the right of reopening the brothels. In 1856, however, a decision of the *Obertribunal* of Prussia pronounced the brothel an illegal institution, whereupon the licensed houses of Berlin were definitely closed.[3]

The "service of morals" as reorganized in 1850 and again in 1876 did not differ essen-

[1] *Sec. 146.* [2] *Sec. 147.*

[3] Blaschko, *Conférence internationale, Brussels*, 1899; *Enquêtes*, i., 662.

tially from the system now in force. We may accordingly pass at once to the existing regulations. The sanitary feature is paramount. The registration of prostitutes is merely auxiliary to sanitary control, since it is absolutely necessary to register the women of loose life if they are to be subjected to periodical examination. A woman may be registered either at her own request or by the order of the chief of the police bureau. The police arrest any woman whom they have reason to suspect of clandestine prostitution. The grounds of such arrest may be direct observation by the special police agents of the service of morals, the denunciation of private persons, of registered prostitutes, or of men who believe themselves to be contaminated by the woman in question. When arrested, she is subjected to a physical examination, and if found to be diseased the police assume the power to place her upon the register. If she is not diseased, she receives a "kindly warning." In the warning-formula, especial emphasis is laid upon the fact that a second arrest would mean compulsory registration. It is assumed that if a mistake has been made in the first arrest, the woman arrested will take such pains to avoid

further suspicion that a second mistake would be practically impossible.

Once registered, prostitutes are required to report every week at the public dispensary for sanitary examination. Failure to do so is punishable by imprisonment, the maximum sentence being six weeks. Examinations and treatment are gratuitous.

Every registered prostitute must give satisfactory information as to age and antecedents. Minors are not, as a rule, permitted to register.

There are of course numerous detailed regulations with regard to the localities where prostitutes may not appear, and with regard to the manner in which they must deport themselves. These it is unnecessary to discuss here.

Comparison of Reglementation Systems of Paris and Berlin.—If we compare the systems of Paris and of Berlin, we find that they do not differ greatly in essence. In both of them prostitutes are treated as a special class, bearing a relation to the common law essentially different from that of other members of society. A renowned French lawyer has clearly defined this point of view by declaring that prostitution is a status in the same sense that the army is a

status, and, just as is the case with the army, prostitutes may be subjected to regulations that would be tyrannical if applied to the ordinary citizen.[1]

In Berlin this manner of regarding prostitution has been handed down from the Middle Ages, and may be considered a survival of a social system in which any body of individuals could be treated as a special status. In Paris it has rather grown up as a result of the exigencies of police administration.

In both cities the need is recognized of a special body of police, acting with large discretionary powers. In both cities the sanitary features of control are paramount; nevertheless, public order, decency and morals receive a certain attention. The Berlin authorities act, perhaps, with greater freedom in imposing registration upon prostitutes who will not submit to it voluntarily. This is probably owing to the greater legal authority which the Berlin police possess.

Much regard has been usually paid to the fact that in Paris it is the policy of the police to confine prostitution to licensed houses, while in Berlin the brothel is absolutely prohibited.

[1] M. Dupin, cited by Lecour, *op. cit.*, 41.

How unimportant this feature is may be understood from the fact that not one tenth of the registered prostitutes of Paris live in licensed houses.[1] In practice, the administrations of the two cities have exactly the same problem to deal with.

There are, of course, innumerable minor regulations that show certain differences in policy. These, however, are of small interest to anyone except the officials who have to administer the systems.

Finally, the sanitary service does not differ in essence. It is true that all examinations in Berlin are held in public offices designed for that purpose, while in Paris those who live in licensed houses are examined at their domicile. This difference is of small significance, since the proportion of brothel inmates is so insignificant. In Berlin examinations are weekly, in Paris fortnightly. Examination and treatment are gratuitous in both cities.

Regulation in Other European Cities.—A study of the evolution of regulation in other European cities would reveal but few new

[1] In 1897, out of about 6000 registered prostitutes only 490 lived in licensed houses.—Dr. Ozenne, *Conférence internationale, Brussels*, 1899; *Enquêtes*, i., 146.

features. Regulation has in general grown out of repressive legislation. Inability to enforce stringent measures against vice has generally given the policy of the police an arbitrary character that was easily changed into discretionary power. Sanitary features have been grafted upon systems of tacit toleration. As a rule, Paris and Berlin have served as models in this respect. Later systems, as the regulations of Italy, were modelled after that of Brussels, which in turn is in essence a copy of the Parisian system.

It may, perhaps, be worth while to touch upon a few of the peculiar features to be found in some of the other cities of Europe. Thus we find in Bremen the plan of confining prostitution to a single small street, which is so situated as to be easily controlled by the police. Prostitutes found elsewhere are arrested and punished by imprisonment. This plan has been partially adopted by several other of the smaller German cities. A similar policy is pursued in some of the smaller French cities.

No very large city has adopted such a policy. It seems probable that the enormous proportions such a quarter would assume in a

city like Paris or Berlin would be a menace to good order and a centre of demoralization. Where special quarters exist, it would seem that the interest of property owners in the vicinity of licensed houses, rather than a consideration of the moral interests of the community as a whole, was responsible for their creation.

In a large number of the cities of France, the police persist in attempting to confine prostitution to licensed houses. In some cities their efforts are not wholly unsuccessful. Thus in Marseilles the licensed houses hold their own. In other cities these houses are constantly declining. These differences are to be explained by the character of the clientage of prostitution. Where strangers are numerous, where sailors are accustomed to land, the licensed house thrives. It is the "law of supply and demand" that decides whether the efforts of the police can be fruitful or not.

Vienna presents several peculiarities in the system of regulation of vice. The Morals police and the Sanitary police are under different authorities. The supervision of public morals falls in the province of the Imperial

police, while for the sanitary control the municipal authorities are responsible. As a consequence, there is a lack of harmony, the Sanitary police attempting to increase as far as possible the number of public prostitutes, the Morals police attempting to limit it. Examinations of licensed women are made by ordinary physicians, designated by the police. They are made either at the domicile of the physician or at that of the woman. They are thus designed to give as little publicity to the activities of police control as circumstances allow.

Extent of Regulation.—Regulation of vice is still properly in the experimental stage. Many believe, it is true, that its salutary effects are not to be challenged; others affirm that no such effects are to be found. It is accordingly necessary, as preliminary to examining the evidence as to the efficacy of regulation, to consider the extent of existing regulations.

In the first place, practically all the cities and large towns of France have systems of regulation much like that of Paris. So also have the cities of Belgium. German cities, as a rule, regulate vice. Hungary has what is

considered an efficient system; Austrian cities regulate vice, but in no very efficient way. For the last half century, Russian cities have persistently striven to keep prostitution under sanitary control. From the time of the union of Italy down to 1888, the larger Italian cities had a system of regulation modelled after that of Brussels. The Scandinavian states, with the exception of Norway, regulate vice in their largest cities; so also do Spain and Portugal. From 1866 until 1883, England tried the experiment of regulation in twelve districts in England and two in Ireland. In these stations prostitutes were registered and subjected to periodic sanitary inspection, and if diseased were detained in lock-hospitals until cured.

Outside of Europe similar regulations have been put in force. The most notorious were the regulations in India during the time of the Contagious Diseases Acts. Hong Kong also presented a system of regulation. In Japan prostitutes are confined to special quarters and are subjected to periodic examinations. Finally, mention may be made of the one experiment in our own country, in St. Louis, 1870–1873.

CHAPTER V

THE SANITARY ASPECT OF MODERN REGULATION

The effect of vice upon the physical health of the community is receiving at present more attention than any other feature of the problem. Reglementists and abolitionists alike test their systems by the effect upon venereal disease. Nothing could be more natural, since it has at last become clear to almost everyone that venereal diseases are frightfully common in every civilized country. Moreover, recent progress in medical science has demonstrated the fact that the diseases that have long been known to be the immediate effects of vice by no means make up the sum of the cost in health that results from it. Many constitutional maladies that were formerly ascribed to entirely different causes have recently been shown to be of venereal origin.

Unfortunately, it is impossible to form even an approximately correct idea of the actual extent of the ravages of venereal disease. One

medical congress after another has urged the necessity of adequate statistics of venereal disease; but up to the present very little has been accomplished in this direction. In Norway alone are private physicians required by law to furnish reports of the cases treated by them. Everywhere else it is necessary to deduce the facts in question from the statistics of limited classes, such as the army and the navy, to piece together hospital records, or to depend upon the estimates of individual physicians.[1]

We may take as a starting-point the Norwegian statistics, since, with all their imperfections, they are the most complete in existence.

In Christiania, a city of over two hundred thousand inhabitants, during the period from 1879 to 1898, the yearly number of cases of venereal diseases of all kinds reported have ranged generally between ten and fifteen per thousand of population. The minimum was 5.7 in 1888; the maximum was 20.7 in 1882.

[1] The Medical Department of Prussia has within the last year undertaken to secure statistics of venereal disease in the State of Prussia. A circular was issued by the Minister, April 30, 1901, requesting all physicians to report all cases treated by them during the current year.—*Bulletin de la Société Internationale de Prophylaxie Sanitaire et Morale*, Tome i., No. 3.

Of these, about two-fifths are cases of gonorrhœa; rather more than three-tenths are cases of syphilis.

For the whole of Norway during the same period, the number of cases of venereal disease has varied from 2.14 per thousand in 1889 to 3.55 in 1882.[1]

These figures are unquestionably too low. Many cases of disease are naturally treated by quacks, or by the patients themselves according to recipes borrowed from comrades. Again, although there is a law compelling every physician to report all cases, it is impossible to enforce such a law. The only motive that would induce a physician to comply with the law is scientific interest.

While cases of hereditary syphilis are reported, it is obvious that many will escape through insufficient scientific knowledge on the part of practising physicians. Finally, there is no place for the legacy of criminality, idiocy and other forms of degeneracy that venereal disease entails upon society.

On the other hand, many of the persons diseased may be treated for several maladies during the same year, or for different phases of

[1] Holst, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 126.

the same disease. Especially would this be true of prostitutes, who are, of course, included in the population at large. This would tend to make the number of venereally diseased seem greater than it actually is. Sufferers from such diseases are very apt to change their physicians; and this also would tend to make the figures too large.

Accordingly, these statistics can be considered as an indication only of the actual extent of disease. Nevertheless, it seems true that far the greater proportion of the ills resulting from vice are recognizable by competent physicians. Christiania is a city in which, for half a century, much attention has been given to combating venereal disease. It may be assumed, then, that its physicians will generally have interest enough to report cases of disease according to law.

Where military service is compulsory, the state of health of the army will show something as to the extent of disease in population, since every able-bodied adult male must serve. The following table will show the extent of venereal diseases in various European armies [1]:

[1] Blaschko, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 681.

	German per 1000	French per 1000	Austrian per 1000	Italian per 1000
1881–86	35.1	58.2	73.6	102.9
1886–91	27.1	51.1	65.3	94.3
1891–96	29.1	56.7	61.0	84.9

As data for estimating the general prevalence of disease, these figures are, of course, to be used with a good deal of caution. The pay of the soldiers, the character of the discipline, the location of the barracks, and a number of other considerations must be allowed for before one can venture to affirm that venereal diseases are more common in Italy than in Germany. It is to be expected that disease will be much more frequent among soldiers than among citizens, owing to the fact that the soldiers are young and unmarried, free from arduous exertion, and exposed to the demoralizing influences that always pervade military bodies.

When an army consists of volunteers, as the British army, statistics of venereal disease cease to have any value as an indication of the general state of health. It is not the typical British citizen who enlists in time of peace.

Where large standing armies do not exist, it is necessary to rely upon the records of

hospitals and the estimates of physicians. The records of hospitals are worth little, as but a fraction of the diseased ever apply for admission. The estimates of physicians are of course mere guesses, most often evolved in the heat of argument, and hence worth practically nothing.

But however imperfect the data for estimating the true extent of the evil may be, they are sufficient to justify the opinion that venereal disease is one of the most serious that menace public health, and that no less energetic measures should be taken to stamp it out than are employed to check the ravages of other serious contagious diseases. Even if the shame and suffering which these maladies cause the individual are left out of account, there is no question that the burden which they impose upon society at large is a heavy one. Even if they do not utterly wreck the health of the individual, they impair his industrial efficiency and increase the chance of his becoming a burden upon society. In the long contest for survival among different nations, a high percentage of venereal diseases is a most serious handicap for any country. It is the duty of a community to do every-

thing in its power to disembarrass itself of them.

But the question whether society owes it to the individual to protect him from venereal infection has long been a subject of bitter controversy. It is a common idea that, since such maladies are generally the result of immoral acts, the persons infected receive merely their due. They have knowingly exposed themselves to the danger; they have violated social laws in order to do so; let them take the consequences.

Another view, one which bears the stamp of modern evolutionary science, recognizes the fact that there are individuals so constituted as to be unable to control their animal instincts. These are, as it were, fatally devoted to expose themselves to contagion. There can be no talk of free moral agency on the part of such persons; one cannot regard the misfortune that befalls them as a punishment for their acts. Such persons are, however, unfit members of civilized society, and venereal disease merely acts to free society from their presence.

The latter view is the more easily disposed of. It is not merely the incompetent, the degener-

ate, the brutal, that fall victims to the scourge of syphilis. The upper classes and the lower suffer alike. In Russian cities, it is said to be the very flower of the youth, the young men in the Universities, who are most frequently diseased. Similar observations have been made with regard to other European countries. Doubtless there is some exaggeration in such statements as these. But any practising physician will bear witness to the fact that among his patients the "unfit" form no considerable fraction.

The other view deserves more extended consideration. It is an undeniable fact that, in the great majority of cases, venereal disease is contracted as the result of a voluntary act,— an act known by everyone to be immoral. It is only natural to regard disease as a penalty for vicious conduct. In this respect there is certainly a valid distinction between venereal diseases on the one hand and all other contagious or infectious diseases on the other. An individual has a right to demand all possible protection from evils which he cannot avoid; his right to protection from dangers which he voluntarily encounters is not so clear.

Yet it is easy to carry the principle of personal responsibility for voluntary acts to an unwarranted extreme. The boy who yields to immoral impulses does not deserve the same penalty that falls upon the man of matured intelligence who lapses from virtue. The influence of the environment must be taken into account in judging the degree of personal responsibility. Now, it is well known that venereal disease is frequently contracted at a very early age. A considerable portion of the syphilitics treated in hospitals are boys still in their teens. Probably a majority of all sufferers from syphilis are infected before the twenty-sixth year.[1]

The penalty of disease, then, falls most heavily upon those who are least responsible for their acts. Accordingly, it is easy to see why many thinkers who are not in the least inclined to condone immorality look upon sanitary control of vice as of paramount importance. So long as society permits men to grow up in an environment inimical to virtue,

[1] Of 10,000 syphilitics who came under the observation of Professor Fournier, 817 had been infected before the twentieth year, and 5130 between twenty-one and twenty-six.—*Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires*, 41.

they argue, it is idle to hold them strictly accountable for their conduct, and inhuman to permit them to suffer from diseases which might be prevented by systematic sanitary regulation.

There is one further fact which would seem to condemn the public policy of ignoring venereal diseases. Great numbers of people suffer from them by no moral fault of their own. It is, perhaps, not as well known as it should be, that men frequently transmit to their wives diseases contracted in their youth and folly, of which they believed themselves to be quite cured. It requires much moral cold-bloodedness to take the stand that this is merely a matter between husband and wife, with which society has nothing to do.[1]

Account must also be taken of the children brought into the world with the curse of hideous disease upon them; of the nurse contaminated by the child she nurtures; of the child diseased through its nurse; and of the

[1] Professor Fournier found that of one hundred women infected with syphilis, twenty had been contaminated by their husbands.—*Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires*, i., 13. See also Flesch, *Prostitution und Frauenkrankheiten*.

numbers of persons who are infected by accidental contact.[1]

[1] In some places, syphilitic disease is regularly contracted in such ways. According to the data at hand, as much as 80 per cent. of the syphilis among the Russian rural population is contracted thus. Even in the city population, extra-genital infection is responsible for from 1.5 to 3 per cent. This does not include hereditary syphilis.—O. V. Petersen, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 264.

CHAPTER VI

THE MORAL ASPECT OF REGULATION

The prominence given in recent discussion to the sanitary evils that result from unchecked and unregulated prostitution has obscured, to a certain extent, the fact that there are greater evils than physical disease connected with vice. One who subscribes to the dictum, "Disease is a great evil, but vice is a greater," is almost certain to be subjected to the scorn of many practical men. Yet, when the controversial spirit subsides, all rational men will admit the gravity of vice, quite apart from its hygienic consequences. The history of decadent Greece and Rome will show to what depths of imbecility and shame it may cause a nation to fall. There can be no greater mistake than to believe that the impulses that lead to vice are constant and invariable, capable of complete satiation. They grow with feeding; if they are wearied with one kind of satisfaction, they seek not

rest, but variety. This fact, rather than any other, will account for the hideous forms of vice that disfigured ancient society. One does not need a revealed religion or a subtle moral philosophy to teach him that unrestrained vice results in mental and moral disease and degeneracy far more hideous and far more dangerous to society than any form of physical disease.

Accordingly, if it is a dangerous policy for government to ignore the existence of venereal diseases and to neglect any possible means for preventing them, it is a still more dangerous policy to ignore vice and to permit it to grow unchecked. To limit the number of those who seek vicious pleasures, and to prevent the furnishing of such pleasures to those who are inclined to seek them, is one of the first duties of good government.

There is a widely-prevalent opinion that the moral task is too great for Government to undertake, while sanitary improvements may be easily brought about; accordingly, it is expedient to limit governmental activity to the comparatively narrow field of sanitary regulation. Those who hold this view lose sight of the fact that humanity is not divided

into two classes, the virtuous and the vicious, but that in it is represented every degree of virtue and vice, from the purest to the most utterly depraved. There will probably always be men who are swayed solely by animal passions, and it would be vain to hope to make them virtuous by legislative enactment. There will always be women who fall willing victims to vice, whom no governmental vigilance could save. A great part of vice withdraws itself as completely from social control as do a man's secret thoughts. The fact remains that the greater part of humanity stands midway between the two extremes and may be improved or degraded in morals by circumstances which lie within the control of society.

Indeed, it is almost inexplicable that anyone should doubt that a more rational system of education, better housing conditions, the suppression of flagrant incitement to vice, and the dissociating of vice from legitimate amusement would diminish the number of patrons of prostitution, and would limit the extent to which the remainder indulge in illicit pleasures. The improvement in morals could not, of course, be very pronounced in its effects. A large part of the gain could appear only in a

succeeding generation. It would certainly be worth none the less for that. It may be remarked that there is hardly a reputable defender of sanitary regulation who does not at the same time advocate measures of moral reform. The influence of pernicious surroundings in promoting immorality is everywhere recognized. Some writers expect much good from measures that tend to promote morality among men, but believe that nothing can be done to diminish the number of women who lead immoral lives. This is the view of Tarnowsky. It rests upon the theory of the innate perversity of all prostitutes, a theory which is not borne out by the facts. Without doubt, congenital perverts do exist among women. But there is no reason for believing that they form more than a negligible fraction of the entire number of prostitutes.

A very large number of prostitutes begin their career of shame when mere children. They may be the victims of procurers, or they may drift into vice without the deliberate incitement of any person who expects to profit from their shame. In any case, they can hardly be held responsible for their vicious conduct.

It is a disgrace to civilization that panders

are still permitted to betray neglected children and to take part of their earnings. In every large city those who have been attracted into prostitution before they were old enough to be responsible for their acts make up a very large proportion of the total number of vicious women.

It is undoubtedly true that a chronic state of poverty has a powerful influence in impelling women to accept a vicious life. Society has up to the present time proven unable to solve the problem of poverty ; and until that problem is solved, there is little reason to believe that there will cease to be a class of women, not necessarily congenitally defective, who will choose a life of vice. But there are in every large city classes of working women whose normal income is sufficient to permit them to live honorable lives, but who are left at times of temporary depression with no means of escaping from starvation except prostitution.[1]

It is easily conceivable that society could furnish temporary relief to such unfortunates

[1] According to Blaschko, *Conférence Internationale, Brussels*, 1899 ; *Enquêtes*, i., 676, occasional prostitution far surpasses in extent professional prostitution in the great industrial centres of Germany. In such cities prostitution increases or diminishes inversely as employment in industry. In St. Petersburg it is common for domestics to practise prostitution when out of employment and to cease from it when work is offered.—Stürmer, *Die Prostitution in Russland*, 76.

and thus diminish, to an appreciable extent, the volume of feminine vice.

Again, there still remains a class of women who are abducted and forced into prostitution by physical violence. The fact that they sooner or later accept their fate is the only thing that can account for the indifference of society toward such a shameful condition. This is certainly a factor within the control of Government.

The possibilities of moral regulation are by no means exhausted when society has done all in its power to prevent women from entering upon a life of shame. It is a long-exploded fallacy that a woman who has once fallen must always remain in the lowest degradation of vice. Of the great numbers who have fallen through need or thoughtlessness, probably the majority are striving to rise out of the mire. It is a commonplace that modern prostitution, viewed as a whole, is a temporary, not a permanent state. After a few years of shame the greater number of these women return to honorable employment, marry, or become kept mistresses,[1] a station degraded enough, to be

[1] Ehlers, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 98 *et seq.*; Schmölder, *Conférence International, Brussels*, 1899; *Rapports Préliminaires*; Jeannel, *La Prostitution dans les grandes Villes du dixneuvième Siècle*, 263.

sure, but infinitely less degraded than that of the public prostitute.

Even among the registered prostitutes of large European cities, there are many who are each year liberated from the control of the police, on the ground that they have ceased to prostitute themselves. Thus, in Copenhagen, from 1871 to 1896, twenty per cent. of the registered prostitutes were cancelled from the register because of marriage, thirteen per cent. returned to their relatives, and ten per cent. were taken in charge by private persons (institutions, etc.).[1] Of course, this would be much more frequently the case with occasional prostitutes, who have not formed the habits of a vicious life.

When the fact that prostitutes can and do reform is taken into account, it becomes evident that Government has not performed all its duty as a moralizing force until it has done everything in its power to make reform possible for those who desire it. The very least that common morality can demand is that no obstacle should be placed in the way of the unfortunates who are struggling to reform.

[1] Ehlers, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 121.

CHAPTER VII

FUNDAMENTAL OPPOSITION BETWEEN MORAL AND SANITARY CONTROL

It is not difficult to understand that the sanitary and moral interests in the control of prostitution cannot be wholly in harmony with each other. Some features of sanitary control may be equally salutary morally, and *vice versa*. Others may at least be indifferent morally, and so create no real opposition between the two groups of interests. But unquestionably many regulations which may be very good from a sanitary point of view are evil from the point of view of morals. And the reverse is likewise true.

It is not an accident that in Paris, where the sanitary branch of the service has been grafted upon the Morals Police proper, and is still subordinate to it, there should be constant friction between the medical men and the police. The police, as guardians of public morals, do not find it possible to put into force

measures that the physicians consider absolutely essential. This is still more the case in Austria, where the two branches are independent of each other. The complaint is frequently made by the sanitary branch that the morals branch pursues its own ends, quite regardless of sanitary considerations. A learned Austrian writer has laid down the axiom that the less the attention that is paid to public morality, the better will be the state of public health, and *vice versa*.[1]

The reason for this opposition lies upon the surface. Since venereal diseases are always the result of contagion, it is evident that if all those who are diseased could be isolated, and kept under treatment until entirely cured, venereal disease would disappear. But it is manifestly impossible to discover all cases of disease in the general population and to treat the patients discovered in isolation. Since, however, venereal disease is usually directly or indirectly traceable to prostitution, if prostitutes could be kept free from it, it would eventually disappear from society. To attain this end it would be necessary to discover every case of disease as soon as it appears,

[1] Schrank, *Die Prostitution in Wien*, ii., 126.

and to confine the patient until the disease is wholly cured. And this implies, of course, a rigid police control over every woman who sells the use of her person, whether publicly or not,—a control sufficient to compel her to submit to very frequent sanitary inspection, and to a long and tedious imprisonment whenever she is infected with disease. Naturally, the most violent opposition on the part of the prostitute must be expected. For several reasons, the periodic examinations are irksome to her ; still more irksome is compulsory treatment, since the diseases with which she is infected may not be painful to her, and she cares not a whit whether she transmits them to her clients or not,—no more than do her clients care whether they transmit disease to her. According to this system of regulation, the police would treat her much as a chattel, and would keep her in good health for her clients' sake.

It is the habit of many who advocate such a system of regulation to paint all prostitutes as hideous, blear-eyed, degenerate creatures, recognizable at a glance, detestable to all, even to their "consumers," stained through and through with every form of vice. If such a

characterization corresponded with the reality, it would be comparatively easy to carry out such a system of regulation, and any moral opposition which might arise could be met by pointing out incidental effects that would make for morality and public order. The lodgings of the prostitute would be under police supervision and would be prevented from becoming dens of filth and contagion. The police would become acquainted with the general habits of such women, would know the individuals who prey upon them, and thus could prevent them from becoming the tools of low criminals, as they so often do under conditions of *laissez faire*. Moreover, the police would naturally inquire into their antecedents and would thus collect valuable data as to the causes, biological and social, which are responsible for such depraved forms of humanity.

Even if the premise of such a class of prostitutes is accepted, the objection might be raised that the semi-official position of the prostitute would seem to indicate a public sanction of debauch. The official guarantee of good health would remove any hesitancy to indulge in forbidden pleasures that fear of

disease might create. Writers of the reglementation school claim, however, that as a practical fact the patrons of women of this class are not likely to be influenced much by sanction or lack of sanction on the part of the police, nor are they of self-control sufficient to restrain their passions for fear of disease.[1]

But it would be a grievous error to suppose that all prostitutes, or even a very large proportion of them, are thus easily distinguished from the decent classes of society. Modern prostitution is an infinitely complex phenomenon. It is intangible, indefinable. From its complexity arise not only the most serious practical difficulties, but moral difficulties as well.

With perhaps the majority of prostitutes, the life of shame is only a temporary state.[2] In a time of distress, they resort to it as their readiest means of support. Or, during certain years in which their native passions are strong, they accept such a life from choice, but, tiring of it, they seek to return into the society which they have left. At first but a comparatively

[1] As an example of this naïve type of reasoning, see *Report of Parliamentary Committee on the Contagious Diseases Acts*, 1882.

[2] *Supra*, 74.

small number of them admit to themselves that they have taken an irrevocable step. They conceal their life from their friends, they account in some fictitious way for their earnings. It may be that they do not have the strength to abandon the life after once becoming accustomed to it. But the majority, in all probability, do abandon it.

To the average individual, it is true, there is something exceedingly repulsive in the idea of the restoration to decent society of women who have lived a vicious life. In the small city, the girl who has been the victim of the selfishness and treachery of the man whom she has trusted becomes a social outcast; how much more would society thrust from itself those who, even under the stress of starvation, have sold their honor. Yet these women are members of society and can hardly be refused by Government the right to reform. And reform would be all but impossible if they were prevented from returning to some kind of society above the plane of the common prostitute.

Now, it is clear that to the woman who, in spite of her secret sin, still considers herself a member of decent society, any policy that

would lay bare her doings, search out her antecedents, classify her with those whom she, at any rate, considers infinitely beneath her, would be a positive deterrent to reform. Hitherto, only those knew of her shame who shared in it; after she is placed under police control, a whole police system is privy to it. It does not matter that the Morals Service is bound not to disclose what it knows; the woman is certain that at any time in her life the knowledge of her previous conduct may in some mysterious way leak out; and the official record of her shame exists, to be consulted by favorites of the bureau, in spite of general regulations.

As would be expected, it is the opponents of a system of regulation who lay most stress upon the fact that subjection to any police control that would be sufficient for sanitary purposes is a serious check to reform,—an act calculated to transform the temporary state of prostitution into a permanent one.[1] But the more moderate and more rational supporters of reglementation admit that inscription upon the register of shame is a most serious step, and

[1] See Yves-Guyot, *La Prostitution*, 218 *et seq.*, and Sheldon Ames, *Regulation of Vice*, 87 *et seq.*

one to be taken only when the chances of reform are small.[1]

Such are some of the moral considerations against forcing women to submit to police control against their own will. In many cases, however, the utmost willingness on the part of the prostitute will not morally justify her registration. This is especially the case with minors. In every large city there are numbers of very young girls engaged in professional vice. According to the theory of sanitary regulation, these ought to be subjected to periodical examinations as well as any others. But moral considerations forbid the public recognition of a right of children of thirteen, fourteen, and fifteen to prostitute themselves. It is a matter of sufficient gravity to register

[1] "Inscription upon the register of the bureau of morals is the final stage of vice, the final term of degradation. It is the official formality, which, like the *licentia stupri* of the Romans, regulates and legitimates the sad trade of prostitution. It is, in a word, that sinister act which severs a woman from society and which makes her a chattel of the Administration."—Mireur, *La Prostitution à Marseilles*.

"The system of supervision and regulation of vice which exists almost everywhere to-day is more designed to force into the depths the girls who are upon the downward path, and to retain in the profession of prostitution those who are already under police control, than to lighten their return to the right." — Neisser, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 5me Question*, 14; also Jeannel, *op. cit.*, 315.

minors of more years than these. On the Continent, the consent of parents and guardians is usually required for their registration. It is difficult to see how the securing of the consent of a probably vicious and worthless parent can relieve the administration of any moral responsibility.

It would, accordingly, seem that while there is a class of prostitutes who would hardly be injured by sanitary regulation, whom it might be for the public welfare to subject to such regulation, there is also a class the subjection of which to regulation is inadmissible from the moral point of view. In practice, every system of regulation is compelled to take a middle course, sacrificing moral ends to sanitary and sanitary to moral. As a result, it is impossible to realize either end completely.

There are other moral difficulties in the way of a system of regulation. No amount of sophistical discrimination between the words "toleration" and "recognition" can conceal the fact that a system of regulation makes of prostitution a legitimate industry subject to regulations in the behalf of its patrons identical in nature with the early regulations as to the weight of the loaf of bread, or the size and

quality of the yard of woollens. Almost everyone is familiar enough with human nature to know that the notion that any indulgence is a general need, inherent in the state of manhood, creates in the growing boy an almost irresistible impulse to experience it. State recognition and regulation of prostitution would unquestionably tend to confirm the already common opinion that secret indulgence is an imperative need.

Again, the creation of the impression that prostitution is safe is pretty sure to increase the patronage of the prostitute, and in so far to increase the material basis without which prostitution would perish. While there are large numbers of men who cannot be deterred from incontinence by fear of disease, yet even of these there are doubtless some who indulge less freely in vicious pleasures for that reason. It is a notorious fact that travellers are less self-restrained in this respect in cities that have the reputation of possessing a good system of regulation than they are elsewhere.[1]

[1] It is sometimes argued that the fact that the "control-book" is very rarely shown by the prostitute to her patrons proves that little thought is given to the possibility of disease, and that hence the guarantee of good health does not add to the sum-total of immorality. Of course it proves nothing of the kind. In a city where

In the practical working of regulation systems, there are many features that are not in keeping with moral requirements. The French system of encouraging the establishment of brothels is a case in point. Anyone knows that the assembling under one roof of a group of depraved women means a still further increase in their depravity. The creation of a propertied class which legitimately shares the profits of vice is in itself demoralizing. It means the recognition of pecuniary interests in the fall of women.[1] In no country have brothels existed without the rise of individuals who make seduction a profession. Of course, flagrant crimes against morality are sometimes punished. Nevertheless, if the brothel is to exist, it cannot be held too

sanitary regulation exists, the patron generally takes it for granted that such women are subjected to it and that the fact that they are at large proves their freedom from disease. (For authority as to the popular belief in the safety of regulated prostitution, see Ströhmberg, *Die Prostitution*, 120.)

[1] France has long possessed a regular publication (*Annuaire Reïrum*) which gives the addresses of all houses of prostitution in the cities and towns of France, together with information of interest to the "trade," such as the towns suited by population and number of men in the garrison for the establishment of new brothels, etc. The procuring of new recruits for the brothels is often undertaken by men representing groups of licensed houses.—Reuss, *op. cit.*, 151 *et seq.*

strictly to account for the measures it takes in securing the necessary number of occupants.

It has long been recognized that it is evil, from the moral point of view, to permit the sale of alcoholic liquors in brothels. The existence of places of amusement in connection with brothels is another serious evil; men who are simply in search of amusement that is harmless in itself are likely to be attracted there, only to become subject to temptations which they do not have the strength to resist. Accordingly, it was at first the policy in Paris to prohibit music and dancing, and the sale of intoxicants in public brothels. But it was found that the brothel could not exist under such conditions. And so the Parisian brothels have been permitted to transform themselves into luxurious cafés and the like, where every form of harmless entertainment is enlisted in the service of vice.

Again, public morals demand that solicitation upon the street and in public places[1]

[1] "From the moment that by inscription a semi-official seal is placed upon prostitution, one is morally bound to grant the women upon whom obligations are imposed the right to exercise their trade. For the great majority of public women, solicitation upon the street is the only kind that can be employed. The street, where they elbow the passers-by, furnishes them the means of their existence; forbid it them, and they die of hunger."—Reuss, *op. cit.*, 265.

should cease. But the prostitute at large would find it practically impossible to live if the prohibition were enforced. The enforcement of such a regulation is not in harmony with a system of toleration.

The licensed prostitute is perfectly aware of this fact, and her conduct is apt to be marked by a flagrancy which the clandestine prostitute would not dare to assume.

Of course it is perfectly apparent that a system of regulation which includes sanitary supervision may, from a moral point of view, be far better than a system of absolute *laissez faire*. Where prostitution is absolutely unrestrained, as it was in London some years ago, crimes against morality are without doubt more frequent than in a city like Paris. The debauching of minors was infinitely more frequent; the forcible detention in brothels, a thing not unknown in Paris, was fairly common. Organized societies for the debauching of little girls have existed, and probably still exist.[1] Solicitation is nowhere more open, more cynical.

But comparison cannot be made between a

[1] See *Revelations of the Pall Mall Gazette*, 1886; also *Select Report on Law relating to the Protection of Young Girls*, 1881, 579.

city in which there is practically no police control of vice, and one in which a most efficient police system has struggled with the evil for a century. Moreover, the conditions of the two cities are not such as to permit of a comparison of any value at all. One must rather compare the moral condition of a city in which sanitary control exists with the conditions that would prevail were sanitary control replaced by an equally efficient moral control.

There is one important consideration which may be noticed here, although it concerns itself immediately with public policy rather than with morality proper. Every student of political science knows that it is a serious matter to create laws or regulations which do not express the moral feelings of the more law-abiding class of society. The legal institution of *mala prohibita* which are not generally felt to be *mala in se* necessarily tends to diminish the feeling for the sanctity of the law,—a feeling without which laws can be effectively administered only by the strong hand of despotic government.

Infinitely more grave is the institution of laws which are, rightly or wrongly, felt by the

moral classes of a State to be of execrable immorality. If, for example, it were agreed by sociological and political theorists that social welfare would be furthered by the literal enslavement of the idle and vicious, a law to that effect would be a menace to good government so long as the general public looks upon human liberty as sacred. It is conceivable that abstract thinkers might conclude that society would be better off if the congenitally defective, those of criminal instincts, and those who suffer from incurable, loathsome and dangerous diseases could be put out of the way. But no sane legislator would be willing to violate the feeling of the sanctity of human life.

In every civilized country there is a large class of persons who look upon reglementation as a State iniquity exactly analogous to the above hypothetical policies. They consider that by legitimizing vice the State identifies itself with immorality. By creating a class of administrative chattels for the use and enjoyment of the vicious, the State outrages the deepest sentiments of humanity. By discriminating between vicious women and vicious men, it insults womankind. By rendering vice innocuous, either in fact or in seeming, it in-

cites the youth of both sexes to debauch. The defender of sanitary regulation will argue in vain against reasoning of this kind. He may try to prove that the countervailing good of reglementation would be so great that the sum of human happiness would be greatly increased by its introduction. But moral sentiments do not demand that society should be happy; they do demand that it should be moral.

Accordingly, even if it could be shown that sanitary regulation is actually as effective in checking disease as its supporters claim, and even if it were impossible to demonstrate a serious moral cost, the legislator would be compelled to take into account the existence of such general antagonism to the policy of reglementation. There is every reason for believing that, in an American city, the more moral element in the population would be practically a unit against it.

One further objection, also political rather than moral, may be added. It is the general belief of political thinkers, at least in Anglo-Saxon states, that every encroachment upon the liberty of the individual is an evil in itself, only to be justified by a very great good resulting from it. A system which makes it

possible for the police to seize on suspicion any citizen and impose upon him an insulting examination for the purpose of discovering disease, and to imprison him on suspicion that he would immorally communicate it if left at large, cannot be said to be in harmony with the principles of personal liberty. Any person might be subject to such indignity, since the natural grounds upon which the administrators of such a system would act are the accusations of persons who have confessedly shared in immorality.[1]

It need not be supposed that the liberty of the average citizen is secured because the police in this specific case act only with regard to friendless women. One inroad into the domain of individual liberty is a precedent for another.

[1] In Paris and Berlin the registered prostitutes are recognized auxiliaries of the police in hunting down clandestine prostitutes. It can readily be seen that the personal liberty of any woman who is not of unquestioned standing in society may be jeopardized by the spite of a common harlot.

CHAPTER VIII

PRACTICAL DIFFICULTIES IN THE REGULATION OF PROSTITUTION

We have seen that the ideal of sanitary regulation can, for moral reasons, admit of only an approximate realization. It is of great importance to examine regulation as it exists to-day, with a view to ascertaining how far the approximation falls short of the ideal.

That part of prostitution which cannot be subjected to sanitary control is necessarily very large. Probably far the greater number of prostitutes begin their career of shame before they have attained their majority.[1]

This fact is so well known that authority need hardly be cited to prove it. It stands to reason that the waif or neglected child of fifteen, sixteen or seventeen should fall the

[1] Of 1000 prostitutes concerning whom Dr. Le Pileur was able to secure detailed information, 758 began to prostitute themselves before the twenty-first year; 109 were prostitutes before the sixteenth year.—Le Pileur, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 3me Question*, 47.

easiest prey, first of the seducer and later of the procurer.

Since the average length of time in which a prostitute exercises her trade is not more than half a dozen years, it is evident that the minors make up a considerable proportion of the total numbers of those who are at any time engaged in prostitution.

But minors, as a rule, cannot be subjected to sanitary control. In every country there is a strong public sentiment against the official recognition of minor prostitutes. Whether it is a sound moral sentiment or mere sentimentality, it must be counted with as a fact; and no administration dares to violate it to any great extent.[1]

With the minors may be grouped the very large numbers of prostitutes who will not voluntarily subject themselves to sanitary control, and whose conduct is not sufficiently notorious to justify compulsory registration. Naturally, most prostitutes begin in this class. They are

[1] In Berlin, 229 minors were registered in 1898. Anyone can see that the number is wholly insignificant as compared with the number actually living in the state of prostitution. In Paris, from 1816 to 1832, 59 % of those newly registered were minors. From 1851 to 1866 minors made up 33 %. From 1880 to 1886 the minors were 20 %. The percentage has declined since, but the exact figures are not at hand.

not at first sufficiently hardened to be willing to be classed with notorious prostitutes; they still cherish the purpose of returning to honorable life. And although the police may suspect them, in probably nine cases out of ten it would be impossible to obtain proof that would by any regular course of judicial procedure convict them of debauch. It is true that such proof is not absolutely necessary. Every police administration that undertakes to control prostitution pursues a more or less arbitrary policy. But experience has proved that such a policy must be pursued with great care. Otherwise the charge is sure to arise that honorable women have been seized and branded with the deepest infamy known to civilization. It may be that the women in question are really what the police consider them to be. But if positive proof is wanting, as must generally be the case, the women stand innocent before the general public. And many such charges would annihilate any police organization.

Continental defenders of sanitary regulation frequently deplore the violent opposition to the sanitary police that is aroused whenever the charge of arbitrary procedure is made.

The system of sanitary control, they claim, is shorn of all effectiveness if the police are not empowered to act upon reasonable suspicion. Whether the popular feeling is sound or not, it is not necessary to inquire. The fact remains that it exists in every country, and that administrative systems find themselves compelled to respect it. Even in Russia, where, we are accustomed to believe, the police do much as they please, the high-class prostitute is seldom forced upon the register, for the simple reason that she can make her cause heard.[1] It is the low-class woman who is the subject of arbitrary disposal. In Germany, imbued as it is with military ideals, the police proceed with a good deal of freedom in registering women against their will. Lack of visible means of support, and the existence of venereal disease are taken as proof of prostitution. Of course, reflection will show that such proof is not absolute. But the public is generally willing enough to believe that a woman without support, especially if diseased, is of bad character; and doubtless mistakes would not be so very frequent. The experience of Berlin proves, however, that the

[1] Stürmer, *Die Prostitution in Russland*, 107.

great majority of those who are actually prostitutes cannot be discovered even in this way.

In Paris, the police are more circumspect in proceeding to register unwilling women as prostitutes. The movement for the abolition of control during the 'seventies and 'eighties brought to light some exceedingly unfortunate mistakes that had been made in the arrest of suspected women.[1] Doubtless the Bureau of Morals proceeded with as great caution as possible. But if compulsory registration is employed freely, some mistakes are inevitable.

It would be interesting to know how far such a policy could be pursued in a great city of England or America, with Anglo-Saxon notions of personal liberty and of inviolability of domicile, and with Anglo-Saxon dislike for police inquisition into private affairs. Of course a great number of low-class prostitutes could be picked up in notorious resorts, and public opinion might find little to object to. But as soon as the more notorious had been disposed of, it is difficult to see how the police could proceed farther.

Accordingly, it may be taken for granted

[1] Mrs. Butler, *Personal Reminiscences of a Great Crusade*, 285; Yves-Guyot, *op. cit.*, 126.

that voluntary registration must chiefly be relied upon. Such is the case in the two cities we have selected as typical.[1] It may, further, be taken for granted that the very great majority of prostitutes will never submit voluntarily.[2]

Without laying too great weight upon conjectural estimates (although the authors cited are entitled to the highest respect), one may consider it a very conservative opinion that in

[1] Of course, "voluntary" inscription must be understood to imply something quite different from free consent. By frequent arrests, by threats of long imprisonment, and the like, these women are compelled to submit. But of course no such persecution would compel a really innocent woman to consent to inscription.

[2] Every authority on prostitution will state that the unsubjected or "clandestine" prostitutes far outnumber those who are subject to control. Naturally, the number of the clandestine can be arrived at only by conjecture. Some of these conjectures may, however, be worth mentioning.

Barthélemy estimates that the clandestine prostitutes are from ten to fifteen times as numerous as the subjected. Reuss contents himself with saying that the clandestine are greatly in the majority. Lecour, writing in the 'seventies, estimated the number of prostitutes in Paris at 30,000, of whom about 4000 were subjected. At present, something over 6000 are subjected; and from the incessant complaints of the increase of clandestine prostitution, we may infer that the proportion has not changed for the better (from the reglementist point of view). Müller, writing in 1867, estimated the prostitutes of Vienna at 20,000. In all probability the number has since doubled. Those under sanitary control numbered 2400 in 1896. Nieman, in 1890, estimated that there were 50,000 prostitutes in Berlin; in 1887, 3063 were under sanitary control.

none of the great cities of Europe do the registered prostitutes make up more than from ten to twenty-five per cent. of the total number of those who gain their living by prostitution.

Without reflection, one would be inclined to suppose that the part controlled is the more dangerous from the sanitary point of view, since the more notoriously debauched. So far as syphilis is concerned, this is a mistake. It must be remembered that the syphilitic, after two or three years, does not normally transmit contagion, and that she is immune against fresh infection.

Syphilitic disease is so common among the patrons of prostitution that a prostitute rarely escapes the disease for more than two or three years after entering upon her life of shame.[1] It is, however, these years in which the prostitute is most averse to submission to control, and in which it is the most difficult for the police to force her to accept control.

Accordingly, it lies in the nature of the case

[1] Out of the 718 syphilitic prostitutes observed by Le Pileur, 489, or 68 %, were contaminated in the same year in which they began to be prostitutes ; 101, or 15 %, in the year following.—Le Pileur, *Conférence Internationale, Brussels*, 1899 ; *Rapports Préliminaires, 3me Question*, 49.

that a very large percentage of those who submit to registration have gone through with their contagious period either partially or wholly.[1] This would be especially true in the case of those infected while minors, since even just ground for suspicion is not sufficient to permit of their registration. It will surprise no one to know that a very large proportion of all prostitutes are infected before their majority.[2]

When we take these facts into account, it seems probable that of those who become registered prostitutes, the dangerous period does not, on the average, bear as great a proportion

[1] Of 431 registered prostitutes observed by the same authority, 318, or 74 %, were already syphilitic when registered; 147, or 34 %, had been infected a year or more before they were registered.—Le Pileur, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 3me Question*, 60.

[2] Dr. Le Pileur describes the early career of the typical prostitute in the following "aphorism":

"Deflowered at 16,
Prostitute at 17,
Syphilitic at 18."

Out of the 718 syphilitic prostitutes, 498, or 69 %, were infected before the twenty-first year.—Le Pileur, *ibid.*

According to Fournier *fils*, 63 % of syphilitic prostitutes under his observation had been infected before the twenty-first year.—*Conférence Internationale, Brussels*, 1899; *Compte Rendu*, ii., *1re Question*, 82.

Jullien finds that 65 % are contaminated before twenty-one.—*Conférence Internationale; Compte Rendu*, ii., *1re Question*, 58.

to the post-contagious period of their career as registered prostitutes as did the contagious period before registration to the period before infection. Moreover, those who are never registered at all do not continue in their life of dishonor as long after becoming immune as do those who are eventually registered.

One further fact to be taken into account is that the patron, or rather the consumer, of the child-prostitute does not exercise the same caution that he would under other circumstances. He flatters himself that it is the first debauch or pretty nearly the first. In like manner, the man who has illicit relations with women who outwardly seem entirely respectable is unlikely to suspect disease.

Accordingly, there would seem to be a good *a priori* reason for believing that the clandestine prostitutes are far more dangerous than the registered ; and this quite without regard for the greater or less degree of perfection of sanitary surveillance.

The comparative morbidity of the clandestine and the registered prostitutes has been very much discussed. As a rule, all supporters of regulation are agreed that the clandestine prostitute is far more likely to be diseased than

the registered prostitute. The opponents of regulation hold the opposite view. The former party seem to have the better facts to support their contention.

One way of proving the dangerous character of clandestine prostitution is to make inquiries as to the source of contagion of men afflicted with venereal disease. But little information of value can be obtained in this way, since the patient is often uncertain as to which one of a number of prostitutes may have infected him. Again, if he knows it, he may refuse to designate the person, since that would render her liable to arrest. Moreover, since the clandestine are held to be not quite so low as the registered prostitutes, many men will give false information out of a species of pride.

But even if it could be certainly known how great the number infected by each class, no really valid comparison could be made, because no one knows the exact number of clandestine prostitutes.

A second way is to compare the state of health of the clandestine prostitutes who are arrested and examined with that of the registered prostitutes. This, too, can give no certain information, since those who are arrested

are but a fraction of the total number, and may not be fairly representative of it at all. Such as it is, however, it is the only empirical evidence of any value that is attainable. This seems to be decidedly against the clandestine. From 1872 to 1888, the sanitary service of Paris examined 45,577 registered prostitutes and 47,340 clandestine. The average morbidity of the clandestine was 31.65%; that of the registered 13.47%.[1]

No separation of the various diseases is here made. It is generally claimed that the comparative proportion of syphilis alone is much more favorable to the registered. This is what one would expect, since gonorrhœa does not carry immunity with it, as does syphilis, and hence may be as common among the older prostitutes as among the younger.

Older authorities on prostitution try to establish the comparative morbidity from the number of examinations in which disease is discovered. This is, of course, a wholly absurd procedure. The registered prostitute who is diseased is removed to the hospital and ceases to figure in the statistics of examinations until

[1] Augagneur, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires*, i., 65 *et seq.*

she is cured, when she again helps to swell the number of examinations in which no disease is found. Whenever figures are cited showing that the clandestine are ten or twenty or fifty times as dangerous as the registered, one may be certain that this astonishing fallacy is chiefly responsible for them.

From such facts as we have, we may, however, conclude that the more dangerous prostitutes, from the sanitary point of view, are those who cannot be subjected to sanitary control.

It remains to consider how far that fraction of prostitution which can actually be brought under sanitary control is really rendered innocuous. This is, of course, a question for medical specialists to discuss rather than for laymen. Nevertheless, it is of the utmost importance for the layman to know what conclusions the specialists have reached.

It may be remarked, in passing, that the discussion of this question has taken an altogether new turn in late years. Twenty years ago it was only the moralist, who knew nothing of medicine, who dared to connect venereal disease with registered prostitution. It is difficult to find a single competent writer of the present day who does not deplore the imper-

fections of the system as it exists, and who does not admit that registered prostitutes are responsible for a vast amount of venereal infection.

In the first place, it is universally agreed that the manner of inspection is imperfect. In many places the inspection has to take place under circumstances that preclude the possibility of scientific accuracy. The apparatus needed is often wanting; the physicians appointed for the work are far too much overworked, and they are not men who have been specially trained for it. Consequently, many of the prostitutes who are dismissed with the official stamp of good health are capable of transmitting contagion. Cases are frequent where men who have accompanied them from the dispensary have been infected with venereal disease.[1]

These deficiencies, it would seem, are almost entirely due to lack of necessary funds. This is clearly the case with the imperfection of

[1] According to Carlier, there are frequently groups of cautious individuals prowling about the doors of the dispensary, waiting to accompany those who have been found by the physician to be in good health. It is hard to characterize the immorality of a system that wantonly deludes men of such exemplary prudence! What wonder that the doctors are sometimes threatened with assassination?

apparatus. The same reason explains the needless haste with which examinations are made. By methods known to modern science, gonorrhœa is practically always capable of being established.[1] The diagnosis of syphilis has never been especially difficult.

But the expense that the needed changes would involve would be considerable. Ströhmberg thinks that one physician could manage four hundred prostitutes. Finger would place fifty only under each physician. Other authorities are inclined to require fewer physicians than Finger, but more than Ströhmberg.

If we suppose that each physician could adequately examine and treat one hundred prostitutes, it is plain that the cost would not be light. In Paris, with six thousand registered prostitutes, sixty physicians would be needed instead of twenty-four. It is true that at Paris the salaries of professional men are ridiculously low, so that the charge would not weigh very heavily upon the budget. But if New York were to adopt a system of reglementation, controlling four or five thousand

[1] Kromayer and a number of other authorities deny this. — *Conférence Internationale, Brussels*, 1899; *Communications*, i.; *Appendix*, 26.

prostitutes (and few would advocate a system which should control less), the expense would be a matter of no small importance. The services of forty or fifty specialists could not be secured at a trifling cost.

To be sure, this point would not have much importance in the case of some other branch of sanitary service. But it must always be borne in mind that the great body of taxpayers would bear with very ill grace an expense created by other men's profligacy.

It is frequently suggested that by a system of charges for examination, a sanitary bureau may be made self-supporting.[1] Against the plan is the unanswerable argument of one hundred years of experience. Every city which has adopted sanitary control at first attempted to meet expenses in this way; and every large city has found that the plan works execrably. The most difficult part of a system of control is to induce prostitutes to submit to it voluntarily; and every burden imposed upon them will deter them from doing so. Accordingly, it has been suggested that those who do submit should receive a

[1] This view is advanced by Dr. F. R. Sturgis, in *Medicine*, June, 1901.

pension; nor is the suggestion unworthy of consideration, if sanitary control is to be adopted. It is time for everyone to disillusion himself of the idea that the expenses of a system of regulation can be met from any other source than general taxation.

The second charge is that examinations do not take place at sufficiently frequent intervals. In Paris, excepting for the relatively small number of inmates of licensed houses, examinations are theoretically made every two weeks. As a fact, many delay their visit to the dispensary, so that the average time is longer. In Berlin, according to regulations, examinations are made weekly. In practice, the average number of examinations per annum is twenty-six.[1] In St. Petersburg, in 1893, the average number for prostitutes at large was twenty-seven; in Moscow, in the same year, it was only four.[2]

Of course, whatever good regulation may do must be greatly diminished when examinations are so infrequent. Disease may reach the contagious form soon after inspection and may be freely transmitted for two weeks or

[1] Blaschko, *Conférence Internationale*, *Brussels*, 1899; *Enquêtes*, i., 671. [2] Stürmer, *op. cit.*, 121.

longer. The reasons why such a state of affairs exists are chiefly administrative. The examination is exceedingly irksome to the prostitute; and if it be made very frequent, she will do her best to evade control altogether. Were not this difficulty real, we may be certain that semi-weekly examinations would long ago have been instituted in all Continental cities.

The difficulty is much less in the case of the inmates of licensed houses. They cannot escape the examiner. This is one of the main reasons why the licensed house is so much favored by the police, in spite of its moral defects. But the spirit of the times makes it impossible to confine any large part of the prostitutes in licensed houses.

Here, then, we have a difficulty which seems to be insurmountable. After a hundred years of experience, and with practically unlimited power to deal with prostitution as it will, the most perfect of police administrations, that of Paris, is manifestly unable to cope with it.

Under this head there is one further subtraction to be made from the efficacy of regulation. The prostitute who discovers herself infected is naturally in no haste to go to the

dispensary, knowing, as she does, that weeks, perhaps months, of confinement will follow. Instead, she lingers as long as possible, or even disappears from her accustomed haunts and plies her vocation as a clandestine prostitute. She may be retaken by the police, and is subject to imprisonment after her recovery. But the future penalty does not outweigh the present prospect of being sent to the hospital.[1]

[1] Of 391 licensed prostitutes at large who were infected with syphilis, 74 per cent. were sent to the hospital in consequence of arrests made by the police. Of course, they would not have gone at once had they not been arrested.—Le Pileur, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 3me Question*, 71.

It may be of interest here to note the number of prostitutes who attempt to escape from control, and the number retaken by the police.

	Total number registered.	Disappeared.	Restored to control.
1888	4591	1779	1491
1889	4951	2125	1309
1890	4770	1555	1234
1891	5015	1450	821
1892	5004	1436	869
1893	4793	1121	739
1894	5154	794	616
1895	5790	1456	494
1896	5900	1190	615
1897	5233	1599	454
1898	6018	344	498

—Louis Fiaux, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 2me Question*, 121.

5609 prostitutes thus "disappeared" definitely in the eleven

In the second place, it is generally admitted that the treatment is not sufficiently prolonged to cure the maladies discovered; that *as a rule*, in case of syphilis, the prostitute is dismissed from the hospital while quite capable of transmitting the disease. The external appearance of the disease is made to vanish; the disease remains. As a French writer has put it, the prostitutes are *whitewashed*, not cured. This is pretty largely the case with gonorrhœa also. For the first two or three years, the syphilitic may at any time transmit disease; gonorrhœa, if not completely cured, may be transmitted for an indefinite period. To cure the latter malady completely, several months of treatment may be required; it is still a disputed point whether or not there is not a large proportion of women infected with it who can never be cured at all.[1]

years. Of course many reasons besides desire to escape the hospital must have operated; but no one can doubt that many disappeared in order to prostitute themselves clandestinely either in Paris or in other cities, carrying disease with them.

[1] Kromayer makes this contention. Jadassohn, on the other hand, claims that in most cases it may be cured if time enough be given. But he frankly states that it is merely an opinion, and admits that it is not as yet proven.—*Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 2me Question*, 41.

The question arises whether this can be remedied. From a practical point of view, it is hard to see how it can. It is out of the question to detain all the prostitutes with latent syphilis in the hospital until the two- or three-year period of contagion is over. Tarnowsky, Jadassohn, Finger, and a host of other medical men suggest the erection of asylums where they may be confined, and where the women afflicted with exceptionally stubborn cases of gonorrhœa may be kept.

According to Finger, about 25% of all licensed prostitutes are in the highly contagious stage of latent syphilis. From this we may form an estimate as to the practicability of the asylum scheme. In our hypothetical system of regulation in New York, we should constantly have from 1000 to 1500 persons serving two- and three-year terms in a species of health reformatory. We should also have a considerable number under indeterminate sentence for gonorrhœa,—a sentence which would in some cases expire only when old age should render the woman innocuous. The question of the costs at once looms up. But, quite apart from that, the plan is absurd, for

no prostitute would submit to an examination that might lead to such consequences, if she could by any possible means escape it. Voluntary inscription would be unthinkable, and the difficulties of official inscription would be immeasurably increased.

There is a minor factor that may be taken into account before we leave the question of the safety of regulated prostitution. The question has often been raised, — generally by laymen, it is true, — whether contagion is not frequently *mediate*. When it is remembered how frequently a low-class prostitute performs the same office, it would seem reasonable that some of her patrons may receive the virus of disease indirectly from others. This has been adduced to explain the alleged fact that cases of disease traceable to inmates of licensed houses are likely to be more frequent, proportionately, than those originating with the isolated but registered prostitutes, in spite of the fact that the former may show a smaller percentage of disease.

It may be seen, then, that many subtractions from the ideal of sanitary control must be made before we reach the actual efficiency of existing and practicable regulation.

If, as seems reasonable, a system of regulation encourages indulgence to a certain extent, it will be necessary to make a further subtraction.

If, however, the small sanitary good that is due to reglementation were a permanent acquisition of society, much might be said for the system. If venereal disease might in this manner be diminished, little by little, through the generations, it might be seriously considered whether the grave present costs ought not to be assumed. As a fact, so long as diseased patrons of prostitution are permitted to transmit their maladies without restraint, practically no permanent improvement is to be expected. A brief relaxation of sanitary control would restore exactly the conditions prevailing before its institution, provided the moral habits of the community remained unchanged. In undertaking one-sided regulation, society takes upon itself a burden which it can never lay down without losing every advantage gained by its assumption.

This fact has led to the demand that all visitors of prostitutes should be subjected to sanitary inspection. The scheme is obviously impracticable, since such inspection could take

place only in the brothel. If physical examination were required of visitors of licensed brothels, the licensed brothel would disappear for want of patronage, and isolated and clandestine prostitution would take its place.

CHAPTER IX

THE ACTUAL EFFECTIVENESS OF SANITARY CONTROL

Since the system of sanitary control of prostitution has been tried in many parts of Europe, and since it has in some cities been consistently applied for over a century, one would naturally expect to find statistical proof of its effectiveness in preventing venereal disease.

In attempting to establish the usefulness of sanitary control, comparisons of morbidity have been made between cities subject to regulation and cities in which regulation does not exist; secondly, comparisons of morbidity before and after the introduction or abolition of regulation have been made; and thirdly, a study has been made of the comparative frequency of disease in cities and countries where severity of control has varied.[1]

The third method is, of course, the most

[1] Blaschko, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 1re Question*, 76.

doubtful of all. The degree of severity of control is a mere matter of opinion; the frequency of venereal disease in the general population is also pretty much a matter of opinion. If we could rely implicitly upon the fairness of the men who furnish these opinions, we could still attach little importance to them. Under present circumstances, there are very few who are not prejudiced either against regulation or in favor of it. Still, we may cite the eminent Russian physician, Stürmer, as authority for the statement that in Russian cities, when the control is relaxed, disease increases, and the reverse.[1]

Of little value, if any, is the comparison of morbidity in different cities. The amount of disease may vary for reasons quite independent of the system of control, since the extent to which men indulge in vicious pleasures depends largely upon their resources, upon the moral tone of the community, and upon the number and character of those who offer such pleasures for sale. Moreover, the possibility of knowing the exact amount of venereal disease varies from city to city. Accordingly,

[1] *Conférence Internationale, Brussels*, 1899; *Compte Rendu, 1re Question*, 40.

unless there is an exceedingly marked difference in respect to disease, unless it may be shown to be exceedingly prevalent in one place and almost absent in another, it is impossible to demonstrate the influence of regulation in this way. As a fact, no reputable author would venture to affirm that venereal disease is more frequent in London or New York than in Paris or Berlin. Assertions based upon *a priori* reasons are frequent enough, but they stand or fall with the reasoning upon which they are based.

Accordingly, it is upon statistics of morbidity for a period before and after the introduction or the abolition of regulation that we must rely, if we are to get statistical proof at all. Even here it is necessary to note many sources of error. Excepting in Norway, only a fraction of the actual number of cases of disease fall under official observation. From the reports of public hospitals and from statistics of disease in the army and navy, it is necessary to infer the extent of venereal maladies in the general population. But many causes influence the number of those who apply for admission to the public hospital. An economic crisis, for example, might compel some

to seek admission who, under ordinary circumstances, would be treated by private physicians. If military service is compulsory, statistics for the entire army will show with some fidelity the curve of disease in the whole country. But if service is voluntary, disease will vary with the class of men who enlist, and that will in turn be affected by economic and social causes too numerous to mention. Changes may take place in the quality of medical skill, so that cases of disease not counted at one period will figure in the statistics of another. Moreover, it is a well-known fact that venereal disease is subject to great fluctuations, the causes of which are not sufficiently known. These fluctuations, while often extending over a great part of Europe, vary in degree from place to place. The effect of such fluctuations upon the statistical problem is obvious. A "spontaneous" oscillation, coinciding in time with the introduction or abolition of regulation, may greatly accentuate or may altogether neutralize the effect of the change.[1]

[1] *Report on Contagious Diseases Acts*, 1882, x. *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 1re Question*, Augagneur, 61; *Enquêtes*, i., Ehlers, 106; *Enquêtes*, ii., *Annexe*, Tommasoli, 39.

Such is the gravity of this source of error that so conservative a writer as Blaschko declares that in consequence of it the results of regulation, whatever they may be, either do not appear at all, or appear very indistinctly.

Nevertheless, it may be worth while to devote a brief space to such statistics as are most often cited in proof of various theses. The English venereal statistics may be taken first, as they are the best known, and have frequently been compared with the results of a laboratory experiment.

By the Contagious Diseases Acts, put into effect in 1866, twelve districts in England and two in Ireland, chosen on account of the number of soldiers and sailors stationed there and on account of the prevalence of venereal disease, were subjected to a system of regulation, modelled, so far as its sanitary features were concerned, after the Continental systems. In 1883 the Acts were suspended. Accordingly, it is possible to study the effect upon the army both of the introduction and of the abrogation of the Acts. In order to eliminate, as far as possible, the influence of the periodic oscillations of disease, the Parliamentary reporters compared with the venereal statistics of the

fourteen subjected stations those of all unsubjected stations.

	Primary Sores.		Secondary Syphilis.		Gonorrhœa.	
	Stations not Subjected.	Stations Subjected.	Not Subjected.	Subjected.	No Subjected.	Subjected.
	Per 1000 Men.					
1861–1866	103	109.7	30.7	37.4	108.2	125.1
1867–1872	93.6	65.4	29.2	24.6	105.4	114.6
Decline	9%	40%	5%	34%	3%	8%
1860–1863	116.3	129.8	30.5	40	116.1	134.6
1870–1873	86	52.5	27.5	20.3	95	106.6
Decline	26%	60%	10%	49%	18%	24%[1]

The first impression created by these figures is that a very considerable reduction in disease is due to the Acts. But even a superficial examination is sufficient to show that the figures are deceptive.

Under primary sores are included both primary syphilis and *ulcus molle*. The latter disease, being easily discovered and easily cured when found, would naturally be the first to yield to sanitary control.[2]

It would be of the highest practical impor-

[1] *Report, Contagious Diseases Acts*, 1882, xi.–xiv.

[2] "Prostitutes may conceal gonorrhœa, and physicians are not always able to determine whether or not a person is infected with syphilis; but *ulcus molle* will always be discovered if regulation is efficient. Consequently, regulation will always have an influence upon *ulcus molle*. With a good system it may become rare, and may even disappear."—Reimers, *Conférence Internationale, Brussels*, 1899; *Compte Rendu*, ii., *1re Question*, 96.

tance to know how far the improvement in the subjected stations was due to the diminution in this form of disease. Few would advocate a system of regulation if its chief result were merely to eliminate that comparatively harmless malady.

The figures for secondary syphilis are no longer considered of any particular importance, since it is impossible to say where the primary syphilis, of which the secondary is a result, was contracted. The Parliamentary reporters argue that in the shifting about of troops, fewer cases of latent syphilis left the subjected districts than were brought to them, assuming that there is a constant ratio between the number of cases of secondary syphilis and that of primary, and assuming that primary syphilis was less common in the subjected stations. The first of these assumptions is not exactly true, and the second is not proven, owing to the grouping of cases of the two kinds of disease. In default of actual proof as to the decline of primary syphilis, the statistics for secondary syphilis are devoid of all significance.

The decline in gonorrhœa is too slight to be of much importance. Even if such a decline

were demonstrably due to regulation, one would hardly find in it much of an argument for the introduction of a system of regulation.[1] Accordingly, all that is proved by the statistics of disease during the existence of the Acts is that a reduction in primary lesions was effected. This is shown conclusively, it would appear, by a comparison of the curve of primary sores in the fourteen subjected stations and the curve for fourteen unsubjected stations chosen for the sake of comparison.

But even if we grant that a decline in primary syphilis took place, it still remains a question whether any light is thrown upon the problem of reglementation in large cities. Most of the stations selected for the English experiment were towns and small cities. A moment's reflection will show that in such places the possibility of compelling all prostitutes to comply with the regulations is infinitely greater than in the great city. Clandestine prostitution can thrive only in great centres of population.

In a civil population, it seems reasonable that a general belief in the safety of prostitu-

[1] Kromayer, after a detailed study of the English statistics, concludes that gonorrhœa was not really affected at all by the Acts.

tion will increase the patronage of vice, and thus neutralize to a certain extent whatever sanitary benefit may be due to control. In an army, the effect would probably be less marked, since soldiers are generally men whose habits are already formed, and who do not usually look upon venereal diseases with as much fear as does the civilian. Accordingly, there is reason to look for a much greater improvement in the health of an army, as a result of regulation, than in the health of the general population.

Norwegian statistics would seem to give more useful information than do those of England. In 1888 regulation was abolished for all of Norway excepting Bergen and Trondhjem. From the figures of Holst, it appears that immediately after the abolition of regulation a rise in the number of cases of venereal disease took place for all Norway.[1]

The statistics for Norway present, however, the same flaw that impairs the value of the English statistics. They do not enable us to know how far syphilis alone increased after the abolition of regulation. Moreover, we cannot

[1] Holst, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 128.

be certain that cases of disease were as carefully reported before 1888 as after that year. In these respects the statistics for the city of Christiania are far more satisfactory. The curve of disease indicates that after the abolition of regulation, all three forms of venereal disease increased. The increase is particularly marked in the case of gonorrhœa.[1] This is somewhat surprising, since both *a priori* reasons and the facts of experience would lead one to expect a more radical change in the curve of *ulcus molle*, at least, than in that of gonorrhœa.

The rise, however, is by no means such an extraordinary one as would be expected by those who look upon reglementation as the solution of the sanitary problem. Moreover, it is a question whether there were not other forces at work which tended to increase the volume of disease. From 1879 to 1888 the population of Christiania increased from 116,801 to 138,319. By 1898 the population had increased to about 220,000. The average annual increase for the former period was less than 2200; for the latter, about 8200. When

[1] Holst, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 126.

it is remembered that the more rapid the growth of a city is, the greater the proportion of young and unmarried men and the greater the relative volume of vice will be, it does not seem unreasonable that an increase in disease would have taken place even if reglementation had not been abolished.

It is also a question whether 1888 did not introduce a period of spontaneous increase in venereal disease. The general oscillations of disease are not confined to any single country. Now, the nearest culminating point of syphilis in Copenhagen was in 1886, corresponding with a similar point in Christiania in 1882. In Copenhagen there was an abrupt descent of the curve of syphilis, reaching the lowest point in 1892, then rising again.[1]

At Lyons, a decline from 1883 to 1888 was followed by an increase from 1889 to 1893. At Paris, a decrease from 1883 to 1888 was followed by an increase. In Colmar, the decline continued from 1882 to 1887, followed by an increase in 1888 and 1889.[2] In the Italian army, a decline from 1881 to 1888 was fol-

[1] *Conférence Internationale, Brussels*, 1899; *Enquêtes*, i., 106.

[2] Augagneur, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires, 1re Question*, 61.

lowed by an increase. Augagneur states that, for about the same period, the same thing is true of the French and English armies. Accordingly, it is an open question whether the increase that followed the abolition of regulation in Norway was due to it.

In Italy, a system of regulation which had been in force for about thirty years was abolished, nominally, in 1888. As a fact, the ministry did everything possible to discredit abolition. Statistics were collected and abused especially to that end. Moreover, the sanitary regulations were still enforced in many cities, in spite of the law. Accordingly, the statistics of Italy are worthless, so far as showing the effect of regulation is concerned.[1] The statistics of the Italian army show that after 1888 an increase in venereal disease did actually take place. But it cannot be demonstrated that the increase was due to the "abolition" of regulation. It was just as probably in part or wholly due to "spontaneous" oscillation.

The statistics of isolated cities or towns which have adopted or discontinued sanitary control are sometimes cited as proof of the efficacy of

[1] Tommasoli, *Conférence Internationale, Brussels*, 1899; *Enquêtes*, ii., *Annexe*.

regulation. It is obvious that such statistics can be of little value, unless the city is a great one, and unless the system is enforced for a number of years. Upon the introduction of a system of control, it is the most natural thing for prostitutes who know they are diseased to move to another town. It is only by degrees that they learn that it is possible to evade regulations that are inconvenient for them. Undoubtedly, such emigration would have an immediate salutary effect upon the city from which they go. The effect upon the country as a whole is, however, practically *nil*. The experience of Colmar, a small city in Upper Alsace, and of Glasgow, would seem to indicate that a policy of absolute repression would have the same effect. It is unfortunate that we have no reliable statistics for a great city which has introduced a really scientific system of regulation. For a small city, the town of Dorpat in Livonia has probably been more successful in making a good showing than any other. That city had always been noted for the severity of venereal disease, and was considered especially dangerous as a station for troops. In 1898, after three years of really efficient regulation, the commandant of the

garrison reported that not one of the thousand men stationed there had contracted primary syphilis during the year.[1]

The most absurdly imperfect experiment upon which arguments were ever based was that of St. Louis, from 1870–1874. According to this regulation, the city was divided into six districts. One physician in each district was to visit the houses of prostitution and the apartments where isolated prostitutes lived, and might make physical examinations *if he thought it necessary.* It is easy to imagine how much chance there was of detecting disease under such a system of regulation. The claim has been made that the number of prostitutes diminished, as well it may have done, since many prostitutes would prefer other cities, where they were free, to one in which they were taxed and controlled. It has been claimed by some that venereal disease diminished; by others, that it increased; neither claim being supported by facts worth anything. For all anyone knows, disease may have decreased or it may have increased. Whatever the change in morbidity, such regulations can hardly be credited with it.

[1] Ströhmberg, *op. cit.*, 206.

In view of the above considerations, it is no wonder that the enlightened supporters as well as the enlightened opponents of reglementation are practically agreed upon rejecting such statistics as we have at present, preferring to rely upon *a priori* reasoning and common sense.[1]

If it were true that the enormous sanitary improvements that the supporters of regulation expect from it could be realized, or if regulation brought about the thorough-going demoralization that its opponents dread, statistics, imperfect as they are, would show it. But since the influence, whatever it may be, is comparatively slight, statistics cannot possibly establish it beyond cavil.

It is, then, upon common sense that one is compelled to rely in deciding whether, with all its imperfections, existing regulation does much

[1] "It is a long time that I have studied statistics. Well, I do not believe that there are any that are of value."—Fournier, *Conférence Internationale, Brussels*, 1899; *Compte Rendu, 1re Question*, 29.

"It is my conviction, based upon studies continued, I am almost sorry to say, through years, that one cannot prove, by statistics, the effect of regulation of prostitution upon the spread of venereal disease."—Neisser, *ibid.*, 35.

"In general, one believes no statistics but his own. One may support a thesis by statistical data, but he will never convince an adversary by arguments of that kind."—Lassar, *ibid.*, 33.

good. However imperfect the system may be, it nevertheless remains that many prostitutes who are capable of transmitting disease are discovered and sent to the hospital. The gist of the matter, according to Tarnowsky, is that a syphilitic prostitute when locked up in a hospital is less dangerous to society than when she is at large.[1]

Burlereaux, according to Barthélemy, observed thirty-five soldiers of a battalion infected with syphilis by the same woman. Would it not have been an advantage to have locked her up before so much damage had been done?

Dr. Commenge has estimated the probable good due to Parisian regulation.[2] From 1887 to 1897, 15,095 prostitutes have been sent to the hospital of the prison of St. Lazare to be treated for syphilis. Assuming that the average period of confinement was thirty days and that each one would have contaminated ten men, 150,950 men have been saved from a horrible disease.

There is something childish about such

[1] *Op. cit.*, 318.

[2] *Conférence Internationale, Brussels*, 1899; *Communications*, i., *Appendix*, 125.

reasoning as this. If venereal disease is as frightfully prevalent among the clandestine prostitutes as all supporters of regulation claim, and if the clandestine so far outnumber the registered prostitutes as they also claim, then the man who is saved from the great probability of being infected by the diseased registered prostitute runs almost as great a risk of infection from other prostitutes. Common sense would admit that the risk is less, but how much less it is puerile to attempt to discover. One may be pretty sure that some of Burlereaux's thirty-five soldiers would have contracted syphilis elsewhere; but omniscience alone would make it possible to know how many.

It is obvious that if the number of prostitutes controlled is a small fraction of the total number, the value of control is zero, since the number of diseased actually removed from active commerce is but an infinitesimal part of the volume of disease to which the patrons of prostitution habitually expose themselves.[1] Regulation may be worth less than zero, if an impression of safety is produced without adequate reason.[2]

[1] Ströhmberg, *op. cit.*, 144.

[2] "The public believes that this service" (sanitary control) "is

How near the efficiency of existing systems is to the zero point it is impossible to say. Some reliance may, however, be placed upon the opinions of those who have spent much of their life in studying the subject. It is worth noting that Parent-Duchâtelet, Behrend, Hügel, and almost all other writers of the first half of the nineteenth century, also many present-day writers in America,[1] never doubted that im-

very easy; that since the women have a direct professional interest in being well, there are practically no refractory ones at all, and that it is possible to have commerce with them without fear as though free from danger. It is here that the danger lies; it is this security that is perilous, since a man exposes himself without the habitual precautions."—Barthélemy, *Conférence Internationale, Brussels*, 1899; *Rapports Préliminaires*, *1re Question*, 5.

[1] "One thing is certain, everyone agrees,—the partisans of regulation not excepted,—that the methods actually in use for diminishing the evils of prostitution cannot be considered effective. The organization and administration of the surveillance, medical and police, are so defective, in our opinion, that but little is to be expected from it."—Neisser, *Bulletin de la Société Internationale de Prophylaxie Sanitaire et Morale*, I., i.

"I am asked, 'Are you satisfied with the existing regulations?' —'No.'—'But you speak well of them.'—'Yes, for they do a *little good*.'"—Fournier, *Conférence Internationale, Brussels*, 1899; *Compte Rendu*, *1re Question*, 100.

"A system of regulation in which arbitrary methods of registration are employed, which does not realize the purposes of sanitary inspection, which cripples the utility of compulsory treatment through premature dismissal from the hospital,—such a system of regulation is certainly of little value."—Tarnowsky, *op. cit.*, 205.

Augagneur and Blaschko are inclined to deny that existing systems of regulation do any good at all. Kromayer is certain that one of

mense sanitary advantages from control were easily demonstrated. Modern authorities, on the other hand, are content to claim for regulation merely a modicum of good, or look upon it as a stock upon which really useful control may be grafted.

the most serious diseases, gonorrhœa, is not influenced in the least by regulation as it exists.

CHAPTER X

PROBABLE EFFECTIVENESS OF REGLEMENTATION IN NEW YORK

The problems which reglementation has to solve differ from city to city. Accordingly, it is not sufficient for the present purpose to show how far it has succeeded in other cities; but each problem relating to reglementation must be considered with respect to the legal institutions, the racial and local characteristics, the social and economic conditions of the city of immediate interest—New York.

The legal question is obviously one which can be decided only by legal specialists. It is in a way preliminary to all further discussion, since constitutional obstacles to reglementation, if such exist, are practically insurmountable. The regulation of prostitution can be a burning question only in the large city; and even if it were agreed by the inhabitants of the city that reglementation is expedient, the hostility or indifference of the country at large

would make it impossible to carry a constitutional amendment for the sake of its realization.

All that can be attempted here is to state the problem, and to indicate the main theories that have been advanced for its solution.

The essential features of a system of reglementation are the periodical examination and treatment in the lock-hospital for venereal diseases. No legal difficulty would arise if the prostitute could be induced to submit to the rules voluntarily. But a very large class will never submit; hence compulsion is absolutely necessary if the system is to be effective. Manifestly, it would be impossible to impose compulsory physical examinations and imprisonment for extended treatment without depriving the persons subjected to them of a large share of their personal liberty.

The most familiar line of defence for such a restriction upon individual liberty is the declaration that prostitution is a status, analogous to the military status, which limits the civil rights of the individual and subjects him to special regulations and, possibly, to special tribunals. This is practically the view of European reglementists. It is doubtful, however, whether American constitutional law would

admit the right of a legislature to create a special status of this kind.

A second manner of defending reglementation is to classify prostitution with occupations that are subject to police regulation, such as cab-driving, the keeping of a hotel, and the like. Regulations may decide under what conditions such a trade may be carried on and under what conditions it is not permissible. Infractions of the rules may be subject to special penalties. The periodical examination could, perhaps, be defended in such a manner.[1] Physical examination would be a condition precedent to the exercise of the trade. But imprisonment for treatment would seem to be more difficult to defend. Would it be possible to imprison a cabman whose license has been revoked and who is *suspected* of intending to carry on his occupation unauthorized? Such a procedure seems to be perfectly analogous to the forcible detention of the diseased prostitute. Accordingly, reglementation must discover some other basis than that of special regulation of a special trade.

[1] It may be remarked that in Russia, workers in factories are theoretically subject to periodical physical examinations, and that in Posen all barmaids are subjected to such examination before entering upon a position.

But whether prostitution is viewed as a special status or a special occupation, some clear definition of prostitution and some workable method of establishing the fact of prostitution are essential. It is absurd to believe that the mere suspicion of police agents or the mere fact of venereal disease would be sufficient in America, as it is in France and Germany, to prove that a woman belongs to the status of professional prostitution, or exercises prostitution as a regular trade, so long as she denies the fact. Legal proof would be absolutely necessary for placing a woman in such a status or class, and such proof must necessarily in the majority of cases be difficult, if not impossible, to obtain.

Another common method of providing a legal basis for reglementation is to bring it under the class of police regulations for preventing the spread of contagious diseases. The analogy between the compulsory treatment of venereal disease and the isolation of those who suffer from other contagious maladies, would, perhaps, be perfect if all venereal patients were subjected to the same treatment. This would, however, be impossible under present conditions ; and to make the regulation

apply to a special class only, would, of course, require the creation of such a special class, and thus would raise the difficulties which have been pointed out above.

A fourth plan is that of restoring ancient laws making prostitution a crime or a misdemeanor and of leaving to the police courts discretionary power as to the penalties imposed. It is conceivable that by a series of legal fictions the diseased prostitutes might be subjected to imprisonment in hospitals, while those not found to be diseased might be permitted to go unpunished. If such a procedure is not unconstitutional, it would probably provide a sufficient basis for a system of sanitary regulation of vice. The difficulty would still remain that sufficient proof of prostitution would be required,—a difficulty which is practically insurmountable.

It remains to be considered whether it would be possible to overcome the natural objections of women of this class to police regulations, so that submission to its rules might be voluntary. This could only be done by granting special privileges to those who submit. A relentless persecution of those who do not submit to the regulations and immunity from arrest to those

who do submit, would undoubtedly drive many to accept registration and periodical examination as the lesser of two evils. Accordingly, the question of regulation based upon quasi-voluntary inscription resolves itself into the question of the possibility of coping with "clandestine" or unsubjected prostitution.

The first question to be considered has to do with the efficiency of the police organization itself. Experience has shown conclusively that for the morals service, special agents, endowed with rare qualities of tact, shrewdness and integrity, are necessary. Doubtless the materials for a special force of agents can be found in an American city. But it stands to reason that it would take time to organize as efficient a force as that of Paris or Berlin. For this reason, it must be expected that for a time excess of caution, varied by unfortunate excess of zeal, would mar the working of the system. This defect would cure itself with time, however, and so may be dismissed.

But, granted a force of the highest degree of efficiency, it is evident that the problem of coping with clandestine prostitution in New York would be exceptionally difficult. The

freedom with which women and girls of good character frequent public places unattended, or pass through the streets alone in the evening, is not paralleled in any European city. In Paris, Lecour could arrest a young woman who waited for her husband at the door of a shop, "because no decent woman lingered upon the sidewalk." Imagine a New York agent of police acting upon such inferences! It is needless to dwell upon this fact, since anyone can understand that American habits of life make it possible for a discreet prostitute to exercise her vocation much longer without rousing the suspicion of a limited force of police agents than she could possibly do in Paris or Berlin.

A second consideration is the greater difficulty that an American morals police would find in acting upon its suspicions. On the Continent of Europe a person generally lives more or less under the eyes of the police. Birth certificates, passports, employment cards, and the like are in fairly general use, so that it is not difficult for the police to have an insight into the antecedents and means of livelihood of the resident population. It is easy to see how such data would be of the utmost importance

in segregating that part of the population which will bear watching. The antecedents of any person who may immigrate into a city are likewise easily determined. But in New York the police would have no help from such data. A secret service, however ubiquitous, could acquaint itself with the life of only a fraction of the population of New York.

Again, it makes much difference whether the vicious element in the population is very migratory in its habits or not. It takes time before the conduct of a new arrival draws suspicion. Still more time elapses before the suspicion is sufficiently strong to justify police action. The person observed may be ready to remove to another city, or to another part of the same city, before anything can be done to fix her status.

The prostitute is notorious everywhere for her migratory habits. Self-interest may, however, compel her to remain in the same city when her whims would lead her to migrate. A city which is preëminently the centre of the life of a whole country will naturally be the place to which prostitutes will flock, and whence they may usually depart only with loss in earning power. Paris and Berlin occupy such positions. New York, on the other hand, is only

one, although the greatest one, of a number of great American cities. As a centre of professional vice, it would be scarcely more attractive than Philadelphia or Chicago, or even a number of lesser cities. What is more, the far greater incomes of American prostitutes make it easier for them to move from place to place than it is for European prostitutes.

In view of these considerations, it is evident that the problem of combating clandestine prostitution in New York is far more difficult than in European cities. One fact is, however, to be set against these, and that is that the occasional prostitute, who merely ekes out an insufficient wage by vicious earnings, is probably less common in New York than in Berlin, and perhaps than in Paris. And this is the most difficult to cope with of all forms of clandestine prostitution.

It remains to consider whether it would be possible to retain as efficient a control over prostitutes once registered as it is in European cities. This also seems doubtful. It is well known that prostitutes are more or less refractory, according to the characteristics of the people from whom they spring. The American impatience of authority would certainly make itself manifest in the spirit with which these

women would obey regulations. The Parisian authorities find great difficulty in following up the prostitutes who withdraw themselves from control by changing their habitations. In view of American notions of inviolability of domicile, it is hard to see why it would not be very easy for a prostitute to drop out of sight altogether by merely moving from one part of the city to another. Moreover, if diseased, she would be exceedingly likely to prefer a few months' sojourn in another city to a period of confinement in a lock-hospital. And while the amount of disease originating in New York might be diminished, the amount of disease in the country as a whole would remain practically the same. Under such conditions, it is evident that no permanent advance in the combating of venereal disease could be made, since a momentary relaxation of reglementation would mean a restoration of the conditions prevailing before its introduction.

In almost every respect, then, New York presents a more difficult problem with respect to reglementation than Paris or Berlin. If reglementation does only a "little good" in the latter cities, it would necessarily do less good in New York.

CHAPTER XI

MORAL REGULATION OF VICE

It is customary to speak as though there were but three possible ways of dealing with prostitution, absolute *laissez faire*, absolute prohibition of vice, and reglementation.

It is very cogently argued that *laissez faire* is an inadmissible policy. Not only does venereal disease extend its ravages unchecked, but every sort of moral iniquity thrives wherever vice is a law unto itself. With equal cogency it is argued that no human legislator can make vicious men or women virtuous, or preserve so close a surveillance over them as to prevent the exercise of their evil propensities. Thus, by a process of exclusion, reglementation is arrived at as the only rational policy for Government to pursue.

It is difficult to understand how such naïve reasoning can still be entertained by thinking men. Regulative and repressive systems differ in emphasis, rather than in essence. The

first aim of the reglementist is to check disease; he recognizes, however, the gravity of vice in itself, and admits that no measures that may limit its volume are to be disregarded. The opponent of reglementation, while believing that vice itself is an evil that completely overshadows any hygienic effects that result from it, will generally admit that all means for combating venereal disease should be adopted, provided that they are not directly antagonistic to moral ends. Accordingly, we find many elements, both moral and sanitary, upon which both parties agree. A system of control based upon such common elements and supplemented somewhat as common sense suggests, would escape the serious charge, now brought against reglementation, of making itself ancillary to prostitution, and would at the same time be free from the moral and hygienic futility of violent repression. Such a system would abandon the task of effecting the impossible, in either morals or hygiene, and would reserve the powers at its command for the bringing about of such ameliorations as experience and reason have shown to be possible. Such a system we may term the Moral Regulation of Vice, since it would

never lose sight of the fact that moral considerations are of paramount importance.

Repressive Features in Moral Control.— The first point upon which all are agreed is the necessity of suppressing, so far as possible, flagrant incitement to debauch. Solicitation upon the street and in public places should be restrained; haunts of vice should be compelled to assume the appearance of decency; in short, every method of conspicuous advertising of vice should be done away with. It is admitted that this can be only approximately accomplished. The prostitute will always contrive to make her presence known. But much would be gained if vice could be made relatively inconspicuous except to its votaries. The constant presence of women known to be immoral serves to recruit each year the patronage of prostitution by inciting to vice many who would not of themselves have sought illicit pleasures. From this point of view, it is far better that prostitutes should be clandestine in fact as well as in name than that they should appear in their true colors. A system which places moral ends before sanitary would be just as capable of dealing with this part of the problem as one which regards

sanitary ends as paramount. As a practical fact, the former system would encounter less difficulty than the latter, since the exigencies of sanitary control require that a certain latitude of flagrancy should be given to the licensed prostitute.[1]

The pernicious effect of a league between vice and legitimate pleasures has been mentioned above.[2] Especially dangerous is vice in public drinking-places. Women are engaged to persuade men to drink alcoholic liquors to excess; the effects of alcohol, in turn, lend service to vice. To what proportions this evil may grow, the Parisian *brasseries à femmes* (drinking-places with female service) will show. It will doubtless be impossible to keep the saloon absolutely free from the presence of prostitution, and to prohibit absolutely the sale of intoxicants in brothels. But a policy which should revoke the license of a saloonkeeper who permits unattended women to frequent his premises in the evening and night would assist in driving vice from the saloon proper. A supplemental policy of discouraging the sale of liquors in so-called hotels would be needed to make the plan effective.

[1] *Supra*, 87, note. [2] *Supra*, 87.

In like manner, the dancing hall or music hall which lends itself to the purposes of vice is a public nuisance and could be reached by the police whenever immorality becomes flagrantly conspicuous.

Vice will naturally take refuge in private houses if denied the use of public places. It would still require regulation to keep it within the bounds of decency. It is in vain that it is driven into privacy if by conspicuous lights or signs or by noisy music it is permitted to make its presence notorious. An English law of the present day makes it possible to close a house if it is shown by the testimony of two responsible citizens to be used for immoral purposes.[1] While it is doubtful whether such a law would have any other effect than that of breaking up the house of ill fame and compelling prostitutes to resort to solicitation upon the street, an analogous measure which should permit aggrieved neighbors to close a house which is *obtrusively* devoted to immorality would be a most efficient force in compelling such establishments to conceal their true character.

We may here consider whether moral ends

[1] The mere fact that men and women resort to a house in such a way as to give good ground for suspicion is accepted as presumptive proof.

are best subserved by relegating vice to a single quarter of the city. It is a serious question whether the house of ill fame, situated in a respectable locality and compelled to preserve an outward air of decency, is as dangerous to the community at large as a similar establishment surrounded by others of a like character and hence not under compulsion to refrain from flagrant devices for increasing its patronage.[1]

Preventive Features.—A second point upon which all parties will agree, is the desirability of keeping growing children free from contact with professional vice. The child who knows all evil is almost destined to share in it. No child over three years of age should be permitted in a house where prostitution is carried on.[2] In tenement and flat-houses, parents of children should be able to bring complaint against tenants of tenements or flats in the same building when suspicion is created that prostitution is carried on in such tenements; and if the suspicion is found to be based upon reasonable grounds, the courts should require

[1] *Supra*, 45 *et seq.*

[2] In Continental cities, the inmates of brothels are not permitted to keep even their own children with them after the third or fourth year.

the landlord to evict the suspected parties. The evil is one of such gravity that it would seem to justify a measure which interferes, to a certain extent, with the principle of inviolability of domicile.

Even where the children of the poor are not in immediate contact with professional vice, their surroundings are frequently highly inimical to virtue. Where a whole family, adults and children of both sexes, is crowded together in a single room, moral degradation is almost inevitable. What the effects of such conditions may be, can be judged from the fact that in European cities an appreciable proportion of the prostitutes who are brought up in such circumstances trace their fall to incestuous relations. The problem is one of the most intricate with which society has to deal, since the incomes of the poor and the rents which they have to pay are almost entirely fixed by laws over which Government has little control. Nevertheless, the question may be raised whether it is not possible, by means of restrictions upon the building and letting of houses, to discourage the formation of quarters that inevitably entail upon the community a most serious burden of vice and disease.

It has often been suggested that the present system of public education does not exhaust its possibilities as a moralizing force. Frequently, the child who leaves the public school loses the only influence that makes for morality, and at the time when the need for such influence is greatest. There seems to be little doubt that an extension of the years of public education for children whose parents or guardians cannot show that they are engaged in satisfactory employment or properly cared for in their homes, would diminish the evil of prostitution of young girls. The child who is left free to pursue her own inclinations, or who is employed by unscrupulous parties, has always been the easiest prey of the professional seducer. Such additional education should naturally be of a kind that would train the pupils for industrial or household duties. It must be remembered that many girls become prostitutes simply because they are so deficient in training as to be incapable of earning their living in any other way.

All students of the social evil understand how serious the problem of the prostitution of minors has become. Whether sanitary or moral ends are considered to be of paramount

importance, the prostitution of children cannot be tolerated. The supporters of reglementation have for decades pleaded for the establishment of reformatories or asylums for the rescue of young girls who have fallen into evil ways, or who are in danger of falling. The Morals Service constantly has to deal with children who are much too young to be registered as public prostitutes, but who nevertheless gain their living by professional vice. All that the judges can do is to give a useless warning, and to send them back to conditions in which moral improvement is impossible. In cities where no attempt is made to regulate vice, the general public is ignorant of the extent of this evil.

A Prussian law of July, 1900,[1] presents the first systematic attempt to grapple with this problem. By the provisions of this law, girls under eighteen who are found to be living a vicious life, or who fall into evil company so that they are in danger of being led into immorality, may be placed in institutions or under the charge of parties who will be responsible for their conduct. If necessary, they may be kept under guardianship until their

[1] *Das Fürsorge-Erziehungs-Gesetz*, July 2, 1900.

twenty-first year. These provisions are applicable both to those whose parents or guardians connive at their downfall, and to those who cannot be controlled by their natural guardians. This law represents the consensus of opinion of the most profound students of the social evil.

Sanitary Features.—A system of moral control would not abandon all of the sanitary features that are embodied in reglementation. Both systems alike demand that general practitioners should be required to possess a high degree of knowledge in the treatment of venereal maladies. Both systems agree that the quack physician who practically fosters disease for his own ends should be eliminated.[1] Treatment for venereal disease should be within the reach of all. The cost of adequate treatment for the more serious forms of venereal maladies is so great that the vast majority of patients cannot be treated at all except at public hospitals and dispensaries. These should, accordingly, be numerous enough to furnish gratuitous treatment to all who desire it. Patients should be encouraged to appear for treatment; every care should be taken to

[1] This has already been accomplished in England.

insure them against exposure, since many would rather endure their maladies in secret than permit it to be known that they suffer from a "shameful disease." If publicity cannot be avoided at public dispensaries, it would be for the general welfare to designate officially private physicians in each quarter of the city who should treat such patients free of charge, receiving their compensation from the public treasury.[1]

Objection will doubtless be raised that such measures would minimize the deterrent effect that is exercised by venereal disease upon those who wish to indulge in vice. It is a sufficient answer that the chronic results of disease are frequently even more disastrous to

[1] According to Dr. Prince A. Morrow (*The Prophylaxis of Venereal Disease*), the vast majority of syphilitic patients do not receive adequate treatment. "Not one in twenty, certainly not one in ten, receives a treatment sufficiently prolonged." The city of New York provides twenty-six beds for the treatment of female venereal patients. For male patients there are fifty-six beds in the City Hospital and a small number in the Metropolitan Hospital. It seems almost incredible that, at the dispensaries, women patients are received in the same room with men, so that the fact that they suffer from secret maladies becomes known. Such a policy reminds one of that pursued by Parisian hospitals toward venereal patients during the sixteenth and seventeenth centuries: They were well cudgelled upon their admission and upon their discharge, in order that the fact might be impressed upon them that they suffered from a shameful disease.

innocent parties than to the sufferer himself. Moreover, the immediate consequences of disease are sufficiently grave to act as a deterrent for those who can be deterred from vice by fear of disease. It is doubtful whether the distantly remote consequences are weighed at all.

Finally, a system of moral control cannot overlook the fact that venereal disease is frequently transmitted to innocent persons. Most frequently, this results from the fact that men who believe that they are completely cured of such diseases still retain chronic accidents by which they transmit disease to their innocent wives. It is difficult to see how this evil can be remedied except by the requirement, as a preliminary condition to the issuing of a marriage license, of a certificate from an official physician showing the present state of health of each of the contracting parties. Such a requirement would work no real hardship to anyone, since few persons who suspected the existence of a disease of this kind would apply for an official examination before health had been restored. It will be admitted that many difficulties would arise in the administration of such a law, and that it could only diminish

somewhat the evil which it is designed to meet. The evil in question is, however, one of so revolting a nature that any amelioration would be worth a heavy cost.

For the administration of any system of control of vice, experience has demonstrated that a special body of police agents is required. If the ordinary police are permitted to arrest suspected prostitutes, or to raid houses of prostitution, the responsibility for the care of public morals is dissipated and unlimited opportunities for blackmail are created. The system which leaves the initiative to the private citizen is inadequate. The citizen may be trusted to do whatever lies in his power to prevent resorts in his immediate vicinity from becoming especially offensive to decency. This part of the system of control may wisely be left to him. But for the discovery of prostitution of minors, for the control of prostitution in public places and upon the street, a limited body of agents selected for exceptional qualities of tact and integrity is absolutely essential. Under a system of reglementation, the agents are handicapped by the fact that much of their time must be spent in hunting down prostitutes who fail to appear for periodic examination.

Divested of this responsibility, their efficiency in preventing the worst forms of vice would be vastly increased.

For the introduction of a system of control embodying the above features several State laws would be needed. But whereas reglementation would with difficulty find a place under the Constitution, a system of moral control would be open to no objections on the score of constitutional law. What is of greater importance, any good that might result from reglementation is fatally tainted with evil; whatever good might result from moral control is good unmixed. Reglementation would arouse the uncompromising hostility of a great part of the community; intelligent moral control would meet with the approval of all, excepting of those who are not satisfied with a plan which would only gradually bring about moral and sanitary improvement, and who dream that there is some royal road to the instant abolition of either moral or sanitary evil.

APPENDIX

THE "RAINES LAW HOTEL" AND THE SOCIAL EVIL

No one who has lived in New York City can have failed to realize that there is a close connection between what is popularly known as the "Raines Law hotel" and professional vice. The term is rapidly coming to be synonymous with house of assignation. This does not mean that there are not many so-called hotels, organized for the sole purpose of evading the Raines Law, which have remained completely free from prostitution. Yet it can hardly be denied that there are forces at work which tend to make the decent Raines Law hotel the exception rather than the rule.

From time out of mind there have been inns and hotels in which no attempt has been made to conform to the rules of morality of the general community. The transient has always been of notoriously loose habits, and it is only natural that vicious women should congregate wherever he is entertained. Inn-keepers of unscrupulous character have winked at disreputable practices where they have not positively encouraged them and shared the resulting profits. It is easy to understand the transition from such inns to the house of accommodation, which does not derive any appreciable part of its returns from legitimate service, but depends upon the patronage brought to it by the professional street-walker. Wherever

solicitation upon the street is permitted, such establishments will inevitably exist; and they will prosper or decay with the form of vice which supports them. Depending entirely upon vice, their location is necessarily limited to the quarters where the volume of vice is considerable. Solicitation upon the street is in turn limited to the vicinity of such houses, since the street-walker, in order to ply her vocation with profit, must have a place in the near vicinity to which she may bring her customers or victims. There is, accordingly, a natural tendency for vice to segregate itself, to a certain extent, from the general community, to form notorious districts in the various quarters of the large city.

New York, however, presents the unique feature of providing virtual houses of accommodation throughout the city, quite without regard for the actual demand for them. As a consequence, all difficulties that normally lie in the way of soliciting in other than notorious parts of the city are removed. The street-walker may make any place she chooses the scene of her operations. As a result, solicitation is probably more general in New York than in any other American city.

This abnormal and pernicious state of affairs is easily explained by reference to the local excise laws. By section 31 of the Raines Law the hotel is given a highly favored position in the sale of alcoholic liquors, since it alone is permitted to sell such liquors on Sunday. It is a trite statement that the profits of a New York saloon are made on Sunday, the week-day trade merely sufficing to pay expenses. While this may be an exaggeration, the Sunday trade is certainly important, since the retention of regular custom frequently depends upon it. It was therefore inevitable that a great number of saloons

should attempt to annex a sufficient number of rooms to pass under the definition of hotels.

For respectable purposes, however, the demand for rooms connected with saloons is necessarily very limited. And so the tenant of a "hotel" of this class has had the choice between paying rent for vacant space or permitting the use of his rooms for dishonorable purposes. Of course there are many men in the liquor business who have preferred a pecuniary loss to a shameful gain. But it is easy to see why, in a class of men who are held more or less in disrepute and who are repeatedly charged with making a gain out of other men's degradation, many will be found who will not stick at profits, however stained. It may be truthfully said that, under the most favorable circumstances, the more scrupulous among the dealers in alcoholic beverages are at a disadvantage. Under the Raines Law, as it has been applied, there is an active influence which favors those who do not hesitate to make themselves the abettors of vice.

Anyone who is familiar with conditions in New York must admit that the effect of the Raines Law has been to provide unexampled accommodations for prostitution. The only questions that are open to discussion are whether the volume of vice is greater than it would be if the Raines Law hotel did not exist, and whether vice as it manifests itself in such institutions is more dangerous to public order and public health than it would be under normal conditions.

The patronage of vice may be divided into two parts: that which is given without the employment of any allurements on the part of those who provide vicious pleasures, and that which is procured by such allurements. It is manifest that nothing can be done to limit

the patronage of the first class. It is by the influence upon the second class that the evil imputable to any institution must be estimated.

Nothing can be clearer than the fact that the possibility, due to the Raines Law hotels, of soliciting now in one part of the city, now in another, increases immensely the number of persons whom the prostitute can subject to her allurements. Moreover, so long as solicitation is confined to comparatively limited areas, it is possible for police agents to restrain, to a certain extent, the conduct of vicious women. When solicitation may occur in any part of the city, the task is made immeasurably greater. Accordingly, the power for evil of the prostitute is increased not only by the possibility given her of meeting greater numbers of men, but also by the greater freedom with which indecent proposals may be made.

More serious still, many of the Raines Law hotels are themselves the scene of most insidious and therefore most effective solicitation. The average citizen goes there to drink his glass of beer and to listen to the bad music and worse jokes that play so important a part in summer entertainment. When there, he becomes subject to solicitation which has the appearance of a mere flirtation; if he yields, it is with the least possible shock to his moral sensibilities; he may feel that he did not seek vice, but was overcome by circumstances. The convenient arrangement of rooms makes exposure unlikely. Persons who would hesitate to enter a brothel or notorious rendezvous are easily "victimized" in the Raines Law hotel with summer garden or roof garden or other facilities for public entertainment. The uncompromising moralist will probably say that it is a matter of small importance what befalls such moral imbeciles.

He might, however, change his opinion if he knew how many of them there are.

Most serious of all, however, is the fact that the Raines Law hotel which stands on the line between vice and harmlessness is very frequently the place where the growing boy is introduced to the mysteries of immorality. Where popular entertainment is given, it is inevitable that a certain number of immoral persons will be found; and if accommodations for vice are present, the work of recruiting the patronage of vice among boys will certainly be active.

The effect of such institutions as the Raines Law hotel in increasing the number of those who earn their living by immorality is no less obvious. Without them, the clandestine prostitute would necessarily take her patrons to brothels, houses of assignation, or to her own apartments. In any case, the risk of discovery would be greater than at present. Many who are just starting upon the downward path would shrink from entering notorious haunts of vice. For such, the Raines Law hotel is naturally convenient. Just as the establishments which furnish free entertainment assist in the downfall of the young man, so they familiarize the young girl with the presence of disreputable characters and permit her to admire their stylish dress and flashy jewelry.

The most damning charge of all, however, is that the Raines Law hotel provides the greatest known facilities for seduction. Young girls, brought by unscrupulous escorts to enjoy the entertainment given, are regaled on beverages of the influence of which they are ignorant, and, by the aid and assistance of the hotel provision, fall easy victims. That this is no imaginary evil, nor

one which is rare, is known to anyone in New York who has eyes to see and ears to hear.

From the point of view of public order, the Raines Law hotel is unquestionably pernicious. It is impossible to form any idea of the number of thefts and robberies committed by prostitutes and their male retainers, since the victims do not usually make complaint. It is known, however, that such crimes are constantly taking place. They are naturally comparatively infrequent in the brothel and in the apartments of the isolated prostitute: in the former, because the proprietor of the establishment does not care to have the reputation for violence; in the latter, because the isolated prostitute does not wish her real character to be known to her neighbors. Even the house of accommodation is generally anxious to have a reputation for safety. But the criminal prostitute can take one client after another to a Raines Law hotel and plunder him with the aid of her male retainer; and if one were to make complaint, it is a simple matter for the woman to choose another quarter for her crimes.

In like manner, the brothel and the isolated prostitute with fixed station are anxious to avoid the reputation for disease. To the one who uses a score of Raines Law hotels indifferently, it makes no difference how many persons she contaminates. Accordingly, there seems to be good reason for the opinion, prevalent among New York physicians, that the Raines Law hotels are the chief factor in the spread of venereal disease.

It has been said that the evils above enumerated are due not to the Raines Law, but to the manner in which it is enforced. Probably not ten per cent. of the "fake" hotels comply with the regulations of the fire, health and building departments. Accordingly, ninety

per cent. could be wiped out of existence by simply enforcing the law. But would that end the matter? Hardly. Instead of going out of existence, the owners of such establishments would be slightly more careful as to the fulfilment of the requirements of those departments. At a somewhat greater expense, they would still be "hotels," and would still furnish accommodations for vice.

It is true that among the provisions of the law, the proprietor or tenant is required to prevent the premises from becoming "disorderly." If this provision were rigidly enforced, some of the evils could no doubt be reached. But when a hundred provisions of a law may be violated with impunity, there is little chance of enforcing any one.

Moreover, those who are best acquainted with New York City are agreed that there is no chance that the law will ever be enforced. The popular detestation of it precludes all possibility of enforcement.

So far as the problem of prostitution is concerned, the essential thing is to put an end to the abnormal tendency to make hotels out of saloons. And this can be done only by relieving the saloon proper of the disadvantages under which it now labors, or of imposing an additional burden upon the hotel. The latter policy would fall under the same popular detestation with the Raines Law itself, and so would seem to be out of the question. Accordingly, the only alternative which appears to be open is the removal of the restriction upon the selling of alcoholic beverages on Sunday. It is not claimed that even such a measure would remove all the evils that the Raines Law, as it has been applied, has created. It would, however, prevent the further growth of the evil and would assist in making possible an effective moral control of vice.

NOTE.—*Provisions of Raines Law discriminating between the hotel and other establishments for retailing liquor to be drunk on the premises. Definition of "Hotel" and "Guest." Raines Law*, § 31 :

"It shall not be lawful for any corporation, association, copartnership or person, whether having paid such tax or not, to sell, offer or expose for sale, or give away, any liquor :

"a. On Sunday ; or before five o'clock in the morning on Monday ; or

"b. On any other day between one o'clock and five o'clock in the morning ; or

"c. On the day of a general or special election, or city election or town meeting, or village election, within one-quarter of a mile of any voting place, while the polls for such election or town meeting shall be open ; or

"d. Within two hundred yards of the grounds or premises upon which any state, county, town or other agricultural or horticultural fair is being held, unless such grounds or premises are within the limits of a city containing one hundred and fifty thousand inhabitants or more ; . . .

. . . . . .

"Clauses 'a,' 'c' and 'd' of this section are subject to the following exception :

"The holder of a liquor tax certificate under subdivision one of section eleven of this act who is the keeper of a hotel, may sell liquor to the guests of such hotel, . . . with their meals, or in their rooms therein, except between the hours of one o'clock and five o'clock in the morning, but not in the barroom or other similar room of such hotel ; and the term 'hotel' as used in this act shall mean a building regularly used and kept open as

such for the feeding and lodging of guests, where all who conduct themselves properly and who are able and ready to pay for their entertainment, are received if there be accommodations for them, and who, without any stipulated engagement as to the duration of their stay, or as to the rate of compensation, are, while there, supplied, at a reasonable charge, with their meals, lodgings, refreshment and such service and attention as are necessarily incident to the use of the place as a temporary home, and in which the only other dwellers shall be the family and servants of the hotel keeper; and which shall conform to the following requirements, if situate in a city, incorporated village of twelve hundred or more inhabitants, or within two miles of the corporate limits of either:

"1. The laws, ordinances, rules and regulations relating to hotels and hotel keepers, including all laws, ordinances, rules and regulations of the state or locality pertaining to the building, fire and health department in relation to hotels and hotel keepers, shall be fully complied with.

"2. Such buildings shall contain at least ten bedrooms above the basement, exclusive of those occupied by the family and servants, each room properly furnished to accommodate lodgers, and separated by partitions at least three inches thick, extending from floor to ceiling, with independent access to each room by a door opening into a hallway, each room having a window or windows with not less than eight square feet of surface opening upon a street or open court, light-shaft or open air, and each having at least eighty square feet of floor area, and at least six hundred cubic feet of space therein; a dining-room with at least three hundred square feet of

floor area, which shall not be a part of the barroom, with tables, and having suitable table furniture and accommodations for at least twenty guests therein at one and the same time, and a kitchen and conveniences for cooking therein sufficient to provide *bona fide* meals at one and the same time for twenty guests. . . .

. . . . . .

"A guest of a hotel, within the meaning of this exception to section thirty-one of this act, is:

"1. A person who in good faith occupies a room in a hotel as a temporary home, and pays the regular customary charges for such occupancy, but who does not occupy such room for the purpose of having liquor served therein; or

"2. A person who, during the hours when meals are regularly served therein, resorts to the hotel for the purpose of obtaining and actually orders and obtains at such time, in good faith, a meal therein."

PART II.

RECOMMENDATIONS OF THE COMMITTEE

A CAREFUL consideration of the foregoing report points unmistakably to the conclusion that the so-called system of regulation is not a radical or adequate remedy for the evils connected with prostitution, even in their merely physical aspect. For the members of this Committee, indeed, the moral grounds alone would have sufficed to stamp as intolerable the proposition that the public authorities should undertake the inspection of houses of ill-fame with a view to rendering the practice of vice innocuous to those who engage in it. We recommend to those persons who are wont to extol this system as a kind of panacea and to deplore, with something of impatience if not of contempt, the Puritanical sentiment which prevails in this country, and which renders any attempt to introduce such a system impracticable, an attentive study of the passages in the above report relating to regulation and its results. They will find, on a

closer study of the results, as these appear where the system has been tried, that their vaunted panacea is no panacea at all, and that their confidence in its merits is far from being supported by the facts.

But, if not regulation, what then? The city of New York is rapidly expanding into metropolitan proportions. Within another ten years its aspect will, in many ways, be transformed. It is certain to become a more commodious and beautiful city than it has ever been before. But what will this material splendor avail if the forces that tend to debase the moral life of its people—and especially of its youth—are permitted to operate unchecked? The Social Evil is assuming alarming dimensions. What is needed at this time is a definite policy with regard to it; a policy that shall not attempt the impossible, that shall not be based on the delusive hope of radically altering in a single generation the evil propensities of the human heart, or of repressing vice by mere restrictive legislation, but which, none the less, shall ever recognize as an ultimate end the moral redemption of the human race from this degrading evil, and which shall initiate no measure and advise no step not conducive to

that end ; a policy that shall be practical with respect to the immediate future, and shall at the same time be in harmony with the ideals which are cherished by the best men and women in this community.

As an outline of such a policy, we submit the following :

First, strenuous efforts to prevent in the tenement houses the overcrowding which is the prolific source of sexual immorality. The attempts to provide better housing for the poor, praiseworthy and deserving of recognition as they are, have as yet produced but a feeble impression upon existing conditions, and are but the bare beginnings of a work which should be enlarged and continued with unflagging vigor and devotion. If we wish to abate the Social Evil, we must attack it at its sources.

Secondly, the furnishing, by public provision or private munificence, of purer and more elevating forms of amusement to supplant the attractions of the low dance-halls, theatres, and other similar places of entertainment that only serve to stimulate sensuality and to debase the taste. The pleasures of the people need to be looked after far more earn-

estly than has been the case hitherto. If we would banish the kind of amusements that degrade, we must offer to the public in this large cosmopolitan city, where the appetite for pleasure is keen, some sort of suitable alternatives.

Thirdly, whatever can be done to improve the material conditions of the wage-earning class, and especially of young wage-earning women, will be directly in line with the purpose which is here kept in view. It is a sad and humiliating admission to make, at the opening of the twentieth century, in one of the greatest centres of civilization in the world, that, in numerous instances, it is not passion or corrupt inclination, but the force of actual physical want, that impels young women along the road to ruin.

The three suggestions mentioned above indicate permanent causes to which the increase of the Social Evil may be traced. A better system of moral education may also be mentioned as an imperative necessity in this connection. As Dr. Prince A. Morrow, in a paper on "The Prophylaxis of Venereal Diseases," says :

"This campaign of education should be extended to the high schools and colleges for young men. Unfor-

tunately, this has always been a forbidden topic. There is no reason why young men should not be forewarned of the pitfalls and dangers which beset their pathway. Whatever may be thought of the innocuity of 'sowing wild oats,' its consequences are most often disastrous to the health of the individual. They should also be taught that self-restraint, personal purity, and respect for women are among the surest foundations of character."

But to come to the points that more directly bear upon the problem as it presents itself in the city of New York.

From a recent report of a committee of the County Medical Association, it appears that the great city of New York provides for the reception and treatment of women suffering from venereal diseases only twenty-six beds in the City Hospital on Blackwell's Island. We recommend the adequate increase of hospital accommodations for this class of patients. This recommendation is based on grounds of public health as well as of humanity to the sufferers. The public health is endangered, in so far as contagion is allowed to spread uncontrolled, and surely the sufferers themselves are entitled to the mercy of their fellow-beings. To justify the exclusion of such patients from the hospitals, and in answer to

the question, What then shall become of them? it has been said: "Let them rot in their own vices." But this is a hard saying, all the more when it is remembered that not a few of the sufferers are but the victims of the sins of others, bearing in their shattered constitutions and in the loathsome disease inflicted upon them the penalty of suffering and humiliation which they themselves have done nothing to deserve.

The Committee further recommend that minors who are notoriously debauched shall be coercively confined in asylums or reformatories. The minors who are engaged in prostitution constitute at once the most dangerous and the most pitiable element in the problem of the Social Evil. They are the most active sources of contagion in every sense. In their case the prospect is, at the same time, most hopeful of waging effective warfare on the Social Evil, since they are young enough, if brought under the right influence, to be rescued from the army of the vicious and restored to honest callings.

But, above all, the Committee recommend a change in the attitude of the law. As it stands at present, the law regards prostitu-

tion as a crime. If we are ever to escape from the present impossible conditions, it seems imperative to draw the distinction sharply between sin and crime. The proposition is to exclude prostitution from the category of crime. We hasten to add that this proposition should by no means be understood as a plea in favor of laxer moral judgments. A sin is not less odious because it is not treated as a crime. Sins may even be incomparably more heinous than offences which the law visits with punishment. Nevertheless, some of the most grievous sins are not subjected to legal penalties, simply because it is recognized that such penalties cannot be enforced, and a law on the statute book that cannot be enforced is a whip in the hands of the blackmailer. Corruption in the police force can never be extirpated until this prolific source of it is stopped.

But it may be asked: What, then, is to be the status of prostitution in the city of New York? In the first place, it must be driven out of tenement and apartment houses; the evil must be rigidly excluded from the homes of the poor. Secondly, it must not be segregated in separate quarters of the city, for the reason that such quarters tend to become nests of

crime and veritable plague spots, and for the further reason that segregation does not segregate, just as it has been shown that regulation does not regulate. Thirdly, all public, obtrusive manifestations of prostitution shall be sternly repressed. Not prostitution itself, when withdrawn from the public eye so as to be noticeable only to those who deliberately go in search of it, shall be punishable; but all such manifestations of it as belong under the head of public nuisance. The result of the adoption of this policy will be, indeed, the continued existence of houses of ill-fame, partly in streets formerly residential and deserted by the better class of occupants, partly scattered in the neighborhood of the great thoroughfares and elsewhere, and these will remain undisturbed under the condition that they remain unobtrusive. The serious and weighty objections that lie against the existence of such houses are well known. But they are in every case objections which really apply to the existence of prostitution itself. They could only be removed if prostitution itself could summarily be extirpated. But this, in the present state of the moral evolution of the race, is as yet impossible. Recognizing, then, that pros-

titution, although it ought not to exist, does and will for an indefinable time continue to exist among us, we are bound, as men advising for the moral welfare of our great city in the immediate future, to point out that form of the evil which, all things considered, will work the least harm.

The better housing for the poor, purer forms of amusement, the raising of the condition of labor, especially of female labor, better moral education, minors more and more withdrawn from the clutches of vice by means of reformatories, the spread of contagion checked by more adequate hospital accommodations, the evil itself unceasingly condemned by public opinion as a sin against morality, and punished as a crime with stringent penalties whenever it takes the form of a public nuisance :—these are the methods of dealing with it upon which the members of the Committee have united and from which they hope for the abatement of some of the worst of its consequences at present, and for the slow and gradual restriction of its scope in the future.

In addition, we would recommend the creation of a special body of morals police, analogous to the sanitary police already existing,

selected on grounds of exceptional judgment and fitness, to whom and to whom alone should be entrusted the duties of surveillance and repression contemplated in the above recommendations.

APPENDIX

PRESENT CONDITIONS IN NEW YORK

Trading in vice has had a rapid development in New York City within the last few years. A combination of circumstances has made this possible. Through the Raines Law, the entrance upon a life of prostitution became attractive and easy. The appearance of the "cadet" formed the connecting link between the Raines Law hotel and the house of prostitution. The partnership between some of the officials of the Police Department and the traffickers of prostitution resulted in a system of reciprocity. Immunity from arrest was exchanged for profits from the trade in vice. When a house containing not more than ten inmates, exclusive of the proprietress, and known as a "fifty-cent house," could afford to pay an initiation fee of $500. to the wardman, and $50. a month for the privilege of continuing in this illegal occupation unmolested, an

estimate can be formed as to the amount of trade which must be carried on within.

In one police precinct, not more than a mile square, there were known to be in 1900 about forty such houses. In the same precinct there were some sixty well-known centres of prostitution in tenement houses. The employees of these houses openly cried their wares upon the streets, and children of the neighborhood were given pennies and candy to distribute the cards of the prostitutes. A system of "watch boys" or "light-houses" was also adopted, by which the news of any impending danger could be carried throughout a precinct in a very few minutes. Honest police officers who attempted to perform their duties were defied by the "cadets" and "light-houses." For a police officer to incur the enmity of a powerful "madame" meant the transfer of that officer "for the good of the service," if not to another precinct, at least to an undesirable post in the same precinct. A virtual reign of terror existed among the honest patrolmen and the ignorant citizens of these districts. Many times, citizens from such quarters have said that they would gladly tell what they could not help but see, were it not that they feared bodily

harm and the destruction of their means of livelihood if they spoke. Little by little the facts were placed on record in the trials of police officers and "cadets."

The Cadet and His Victim. — The "cadet" is a young man, averaging from eighteen to twenty-five years of age, who, after having served a short apprenticeship as a "light-house," secures a staff of girls and lives upon their earnings. He dresses better than the ordinary neighborhood boy, wears an abundance of cheap jewelry, and has usually cultivated a limited amount of gentlemanly demeanor. His occupation is professional seduction. By occasional visits he succeeds in securing the friendship of some attractive shop-girl. By apparently kind and generous treatment, and by giving the young girl glimpses of a standard of living which she had never dared hope to attain, this friendship rapidly ripens into infatuation. The Raines Law hotel or the "furnished-room house," with its café on the ground floor, is soon visited for refreshments. After a drugged drink, the girl wakens and finds herself at the mercy of her supposed friend. Through fear and promises of marriage she casts her fortunes with her

companion, and goes to live with him. The companion disappears; and the shop-girl finds herself an inmate of a house of prostitution. She is forced to receive visitors of the house. For each visitor the girl receives a brass or pasteboard check from the cashier of the house entitling her to twenty-five cents. The "cadet" returns to the house at frequent intervals, takes the checks from his victim, and cashes them at the cashier's desk.

Within the last year, six "cadets" have been sent to State prison for abducting girls under the age of eighteen years. The facts were substantially similar in all the cases, and in a majority of them the victims were physical wrecks when rescued.

The victim of the "cadet" is usually a young girl of foreign birth who knows little or nothing of the conditions of American life. She has just reached womanhood, and is taught by her parents that the time has come for her to look forward to marriage. Very often, the parents themselves are highly flattered by the attentions which are being paid to their daughter by such a prosperous-appearing young man. The conditions are all favorable for the accomplishment of the purpose for which the

"cadet" began his attentions. The early teachings of the young girl are propitious for the consummation of her destruction. She is taught that obedience should be unquestioned, and that the word of the husband in the household is law. The "cadet" relentlessly uses these weapons which have been placed in his hands, and he soon finds himself in possession of this money-maker whose receipts will yield him ordinarily forty or fifty dollars a week. If the young girl succeeds in escaping from the house of prostitution, she prefers, in a majority of cases, to become a street-walker rather than to return home and to face the disgrace which awaits her there.

Conditions in Tenement Houses.—The revenue-producing power of the sale of immunity by the police seemed to make the appetite of the police insatiable. The infamy of the private house, with all the horrors arising from the "cadet" system, did not satisfy official greed. The tenement houses were levied upon, and the prostitutes began to ply their trade therein openly. In many of these tenement houses as many as fifty children resided. An acquaintance by the children with adult vices was inevitable. Almost any child on the East Side

in New York will tell you what a "nafke bias" is. The children of the tenements eagerly watch the new sights in their midst. The statistics of venereal diseases among children and the many revolting stories from the Red Light district tell how completely they learned the lessons taught them.

In the argument before the Cities Committee at Albany in April, 1901, the Chairman of the Committee of Fifteen presented certain statistics founded upon an inspection of 125 tenement houses in which prostitutes were known to reside and to ply their trade. This statement gave rise to violent attempts at refutation by prominent officials both at Albany and in New York City. An attempt was made to becloud the issue by statements of these officials that the virtue of the poor had been assailed by the Committee of Fifteen. Our then Police Commissioner, whose ignorance of conditions would have been humorous rather than pathetic were not the facts so serious, stated that there was not a disorderly tenement-house below Fourteenth Street; that he had lived in that neighborhood for many years and knew what he was talking about. In spite of his vigorous denial, complaints were

received by the Committee of Fifteen and evidence was easily collected against prostitutes in the street in which he himself resided.

In the work of the Committee of Fifteen, evidence was secured in over three hundred[1] separate disorderly apartments in tenement houses in the city of New York. Over two hundred of these tenants were removed under the new Tenement House Law which went into effect July 1st, 1901. Authentic reports reached the Committee that many of the tenement-house prostitutes were retiring into private houses of prostitution.

It is certain that the houses of prostitution are not flaunting their wares upon the streets in the manner of a year ago. Street-walking is also far less frequent. A number of the more notorious dives have either changed hands or have closed their doors. The most widely known proprietor of houses of prostitution in New York City is now serving a term in prison upon evidence secured by the

[1] It is impossible with such a limited staff of workers as were employed by the Committee of Fifteen to approximate the number of prostitutes or houses of prostitution in New York City. The figures given represent cases where corroborated evidence was secured by the Committee. There are no trustworthy statistics in existence covering the general question of the Social Evil in New York.

Committee of Fifteen. The proprietor of several of the lowest dives is at the present time a fugitive from justice, having forfeited his bail. Three police officers who were shown to have been in partnership with vice have already been convicted, and a half dozen are now awaiting trial. As a result of the whole movement, the prospect for a reasonable control of the Social Evil in New York City is more favorable at the present time than it has been for many years.

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